

# **GOVERNOR'S WORKING GROUP ON THE MANAGEMENT OF SEX OFFENDERS**



**FINAL REPORT**  
August, 2001

August 30, 2001

The Honorable Mike Johanns  
Governor of the State of Nebraska  
P. O. Box 94848  
Lincoln, NE 68509-4848

Dear Governor Johanns:

Enclosed please find the final report of the Governor's Working Group on the Management and Treatment of Sex Offenders, which you appointed on November 15, 2000. We, the members of the Working Group, thank you for the opportunity to assess the current system for managing and treating sex offenders in the State of Nebraska. Response to sexual offenses at all levels - legislative, law enforcement, judicial, correctional, assessment, treatment, and probation/parole supervision - must be designed to address the unique components of sexual offenses. In appointing this Working Group, you have recognized that sex offenders require a separate, individually designed response. The Federal Government has embraced this philosophy through community notification and civil commitment. Additional factors, the combination of which render sex offenses unique among criminal behaviors, include the following:

- ◆ The psychological cost to victims of sexual offenses is usually more intense and long lasting than that of other crimes.
- ◆ Sexual offenses are underreported.
- ◆ Sex offenders often prey on children.
- ◆ Sex offenders who prey on children are typically considered to be mentally ill.
- ◆ Sex offenders are difficult to identify since they do not fit common stereotypes.
- ◆ Sex offenders can be "contained", but not "cured".
- ◆ Sexual offenses may be self-perpetuating. Victims may become perpetrators.
- ◆ The Vermont Center for the Prevention and Treatment of Sexual Abuse calculated the cost of *one* re-offense to be approximately \$140,000.
- ◆ The recidivism rate is high when punishment is the "treatment" of choice, as punishment does virtually nothing to facilitate an offender's resistance to deviant sexual arousal. (Sex Offenders: a Biomedical Perspective and a Status Report on Biomedical Treatment, Fred Berlin, pg. 92)
- ◆ A study of sex offenders conducted in 1994 in the State of Oregon confirmed that, unlike other offenders, who tend to "age out" of their criminal behavior as they grow older, many sex offenders continue to abuse throughout their lifetimes.
- ◆ The Oregon study also found that sex offenders frequently score in the low (or "safer") range on traditional correctional risk assessment instruments, as these instruments do not address many of the areas that are indicators of risk for sex offenders.

These factors reinforce the urgency with which the Working Group has defined and recommended a cohesive, comprehensive, integrated approach to the treatment and management of sex offenders in the State of Nebraska.

We have had the rare experience of stepping outside our own roles and examining each facet of the system. We have examined what is working well in other states. We have accessed professionals from all areas of the State and from both the public and private sectors who have responsibility for decision-making in the current system. The Governor's Working Group designed charges to three Work Teams (see Attachment B) to assist in this process. The Teams were charged with assessing the current system and with making recommendations in the areas of (1) legislation, (2) offender assessment and treatment, and (3) criminal investigation and offender supervision. Each Team completed a final report to the Working Group on or before April 15, 2001. Thus the recommendations in this document represent the combined efforts of over sixty professionals throughout the State of Nebraska.

These professionals bring commitment, expertise and experience to their responsibilities. We are fortunate that the quality of the facets of Nebraska's system to manage and treat sex offenders, disparate and fragmented though they be, is high. Our primary concern is the lack of communication among involved professionals, which results in compartmentalized, inconsistent decision-making in investigating, charging, sentencing, treating, and supervising sex offenders. Our second concern is that current resources to address both the management and treatment needs of sex offenders and, therefore, of the public are limited to the most fiscally demanding components of a comprehensive system. The results of our assessment of the current system indicate that Nebraska has many of the basic components critical to addressing the weaknesses in the current system.

We will delineate, in detail, two major recommendations: (1) the development of a Governor's Council on the Management and Treatment of Sex Offenders and (2) the addition of components necessary to develop a full continuum of options in the treatment and management of offenders. Each of these recommendations is critical to the development of a comprehensive, consistent, and effective system that will provide optimum safety to the public and will provide optimum opportunity for sex offenders to function with minimal likelihood to re-offend.

These two recommendations are listed in the order of priority. Based on research from other states and our assessment of our current system, the first priority is the development of a Council to develop and implement consistent policy and decision-making. This process is based on the need for communication among all decision-makers in treatment and management of sex offenders. The development of this Council is the first step in the development of a comprehensive system. The second priority is the development of additional treatment and management options to provide for supervision and treatment of sex offenders for as long as they pose a

danger to the public. We are strongly committed to the adoption of both of these recommendations.

We appreciate your willingness to examine our recommendations. We are available to clarify issues that may require additional information. A bibliography is included. Please notify us if you or your staff wish to examine any of the complete documents from which information is gleaned.

In closing, we wish to express our deep gratitude to Dr. Nancy Mize, who authored this report under our direction, and to Dave Montgomery who facilitated the process with patience and creativity. We are grateful, as well, to Christine Stroud who took copious minutes and who translated ideas into organized documentation.


Thank you again for the opportunity to address an issue that is critical to public safety and security.

Sincerely,

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## INTRODUCTION

### **BACKGROUND**

In late 1999, both Health and Human Services (HHSS) and the Department of Correctional Services (DCS) staff became increasingly concerned regarding the number of post-incarceration Mental Health Board commitments for sex offender treatment. During 1999, the DCS referred 37 sex offenders for post-incarceration commitment. Fourteen of these offenders had been committed to Lincoln Regional Center for treatment. Lincoln Regional Center (LRC) had 64 inpatient sex offender beds, which were consistently occupied. Fourteen offenders committed for treatment by Mental Health Boards were being held in licensed mental health beds awaiting transfer and treatment. These beds were not, consequently, available for the mentally ill population they were designed and funded to serve. As sex offenders who had refused treatment in the DCS were committed to the LRC, the potential increased for treatment beds to be occupied by resistant patients for indeterminate periods of time. In addition, resistant offenders impacted negatively on the treatment milieu. Approximately 150 sex offenders were expected to complete their sentences in each of the next three years. An estimated half of those offenders were projected to meet the criteria to be classified as high risk based on the State Patrol assessment. An estimated 20 plus offenders were projected as likely to be committed to LRC for sex offender treatment in each of the next three years. The situation was becoming emergent and public safety had the potential to be increasingly compromised.

HHSS and DCS began both individually and together to discuss solutions to the concerns generated by the current and projected numbers of offenders who presented as dangerous at the completion of their incarceration. These offenders could be classified in one of four categories including: (1) treatable, but resistant to treatment; (2) treatable and responsive to treatment; (3) untreatable; and (4) treated and in need of a level of supervision concomitant with current risk level. The 64-inpatient sex offender beds were being occupied by persons representing all four categories of offenders despite the fact that treatment was primarily designed to meet the needs of treatable and responsive offenders and, to some extent, to meet the needs of treatable, but resistant offenders. It was clear that a continuation of the system current in 1999 would ultimately result in most of the 64 beds being occupied by offenders for whom the program was not designed, and discharge of these offenders would be infrequent.

In January 2000, HHSS and DCS began meeting to generate solutions to the increased demand for a limited number of treatment beds. Among the ideas generated were: (1) an increase in treatment beds; (2) indeterminate sentencing for offenders who were non-compliant with treatment and who continued to present a danger to others; and (3) collaboration between DCS and HHS in the treatment of

incarcerated offenders. Models of sex offender treatment and management from other states were examined. As discussions ensued, however, it became increasingly clear that an increase in current resources, which would meet immediate needs, was a short-term solution to a long-term systemic problem. A proactive approach, which would assess deficits in the current continuum of services, appeared critical to provide for optimum public safety. On July 28, 2000, interested persons from HHSS and DCS generated a plan to request a charge from the Governor. The purpose of this charge was to access community resources and agency resources to examine the current fragmented system and to develop a comprehensive policy for the management of sex offenders in the State of Nebraska. The Charge to the Governor's Working Group on the Management of Sex Offenders in Nebraska was received on November 15, 2000.

### **GUIDING PRINCIPLES**

The Governor's Working Group delineated the following guiding principles to define and focus the task assigned to them by the Governor:

1. Community safety is paramount.
2. Victims have a right to safety and self-determination.
3. Sex offenders are dangerous.
4. Sex offenders must be held accountable for their behaviors. Assignment to community supervision is a privilege.
5. Individuals with a pattern of inappropriate sexual behaviors can be treated but not cured.
6. Assessment and evaluation of sex offenders is an ongoing process. Progress in treatment and level of risk are not constant over time.
7. When a child is sexually abused, the child's individual need for safety, protection, developmental growth and psychological well-being are paramount to recovery.
8. It is in the best interest of public safety for each community to have access to a continuum of sex-offender management and treatment options.
9. Assessment, treatment, and management of sex offenders require both consistent standards and guidelines and a coordinated response from all involved agencies and entities.
10. Effective sex offender assessment, evaluation, treatment and behavioral monitoring are non-discriminatory, therapeutic, humane, and bound by the rules of ethics and law.
11. Family, friends, employers and members of the community who have influence in sex offenders' lives are resources in the successful treatment and management of sex offenders.
12. Initial and ongoing education and training of each participant in the sex-offender criminal justice process is paramount.



13. Prevention and early intervention can reduce the incidence, severity and impact of sexual assaults.
14. Outcome-based research provides information necessary to maintain and improve a state-of-the-art system for the management and treatment of sex offenders.

## **EXECUTIVE SUMMARY**

To replace the current reactionary, fragmented system, the Governor's Working Group recommends the development of a Governor's Council on the Management and Treatment of Sex Offenders. The mission of the Council would be to provide oversight and coordination for the consortium of programs within existing agencies that currently provide services critical to the management and treatment of sex offenders. This Council would be responsible for the ongoing development of needs assessment, training, standards, and guidelines for a comprehensive management system for sex offenders. This Council would work with the various agencies to share information and expertise with the goal of streamlining the current system. Shared information and expertise would increase the efficiency and efficacy of current services. In addition, this Council would provide assistance by developing policy, methodology, and legislation as such changes became necessary due to the consistent evaluation and updating of services. Current functions that would be coordinated by the Council include the following:

- ◆ Prevention services
- ◆ Victim services
- ◆ Offense investigations
- ◆ Pre-sentence investigations
- ◆ Sentencing
- ◆ Probation
- ◆ Correctional services (State and county)
- ◆ Parole Board
- ◆ Treatment (HHSS, DCS, and community)
- ◆ Clinical assessment (HHSS, DCS, and community)
- ◆ State Patrol risk assessment and notification process

In addition, the Working Group recommends the following:

- ◆ Facilitate the sharing of information.
- ◆ Increase prevention services.
- ◆ Increase victim services.
- ◆ Increase parole and probation options.
- ◆ Mandate lifetime supervision for sex offenders who continue to present as a danger to others.
- ◆ Increase the use of clinical assessment prior to sentencing.
- ◆ Increase training opportunities for all professionals involved in the treatment and management of sex offenders.

- ◆ Create mandated treatment standards.
- ◆ Conduct research to assess program and service efficacy and needs.
- ◆ Credential professionals (psychologists, psychiatrists, licensed mental health professionals, licensed clinical social workers, and nurses) who provide sex offender assessment and/or treatment.
- ◆ Create a mandated process of civil commitment.
- ◆ Require DNA testing and fingerprinting in all facets of sex offender intervention.
- ◆ Require polygraph testing in all facets of sex offender management and treatment.
- ◆ Develop a continuum of care for sex offenders with developmental disabilities.
- ◆ Develop treatment resources for female sex offenders.
- ◆ Develop and implement age-appropriate services for juvenile sex offenders.
- ◆ Eliminate barriers to sharing juvenile information with the adult system when juveniles transition into the adult system.
- ◆ Develop and implement training for families and friends of sex offenders.
- ◆ Develop trained sex offender investigation teams for access in all areas of the State.
- ◆ Develop interagency management and treatment teams for all sex offenders.
- ◆ Increase options for treatment and supervision of sex offenders.
- ◆ Hold offenders accountable by assessing fees for treatment, supervision, and victims' costs.

Legislative changes necessary to support the recommendations of the Working Group include the following:

- ◆ Enact legislation similar to LB 435 (1999 Legislative Session) to provide a comprehensive statutory mechanism for civil commitment of sex offenders who have completed their criminal sentences, but who still pose a high risk of re-offending. This legislation would mandate the initiation of proceedings by the county attorney in the county of conviction.
- ◆ If Nebraska's Mental Health Commitment Act is used as the statutory mechanism to effect civil commitments, the definition of a mentally ill person should be changed to include those who suffer from a mental abnormality or personality disorder that makes them likely to engage in acts of sexual violence if not confined in a secure facility.
- ◆ Repeal Section 43-252 and amend Section 43-279 of the Nebraska Statutes to authorize the fingerprinting of juvenile sex offenders and the maintenance of such fingerprints and juvenile arrest and adjudication

history by the State Patrol in a manner proposed in LB 159 (1999 Legislative Session).

- ◆ Enact legislation similar to LB 940 (2000 Legislative Session) to require clerks of the court to notify the superintendent of the public school district or the governing authority of the private, denominational, or parochial school where a student adjudicated delinquent based upon the commission of a sex offense attends school.
- ◆ Enact legislation such as the “Habitual Sex Offender Act” LB 434 (2001 Legislative Session).
- ◆ Within constitutional limitations, prosecutors should have access to all relevant information regarding a sex offender’s prior sexual behaviors, whether or not such behaviors may have led to prior convictions, and should use due diligence to take such information into consideration when charging the offender. Judges should have access to such information for consideration in sentencing the offender. Information available to judges through pre-sentence investigations should include the sex offender’s history of juvenile arrests and adjudications, an initial comprehensive mental health sex-offender-specific evaluation, the offender’s medical and mental health treatment records, and the offender’s institutional history including a history of disciplinary actions imposed during prior incarcerations.
- ◆ Support the exchange of information among agencies/entities involved in treating and managing sex offenders.
- ◆ Enact legislation such as that proposed in LB 564 (2001 Legislative Session) as it would amend Section 29-4009 of the Nebraska Statutes. This legislation would recognize the right of a victim to be notified of the whereabouts of the victim’s assailant, regardless of whether the offender is classified as low, moderate or high risk.
- ◆ Amend Nebraska Rule of Evidence 404 so as *not* to require the personal appearance of victims at Rule 404 hearings. Victims’ testimony on prior crimes or “bad acts” should be admissible by affidavit at such hearings, as it is in the federal court system and in other states.
- ◆ Amend Nebraska statutes to recognize that prior sex offenses of a defendant charged with a new sex offense may be admissible under Nebraska Rule of Evidence 404, whether or not the prior offenses are of a “signature” nature.
- ◆ Enact legislation such as Section 5 of LB 564 (2001 Legislative Session) as it would amend Section 29-4005 of the Nebraska Statutes and would allow for lifetime sex offender registration as needed for certain sex offenders who pose significant risk of re-offending.
- ◆ Sex offenders, regardless of age, should be subject to supervision as long as they pose a threat to the community. Juvenile sex offenders should not automatically be discharged from supervision upon attaining the age of

19, but should be subject to community supervision as long as they pose a significant danger of re-offending.

- ◆ Sex offenders should be assessed a civil fee for services received. This fee should include a reasonable contribution toward the cost of safety measures needed for management; e.g., registration, electronic monitoring, Ground Positioning System monitoring, polygraphs, treatment, and intensive supervision.
- ◆ To promote the best interests of children who have been victims of sexual assault, the perpetrator should be moved or inconvenienced rather than the victim to achieve lack of contact rather than further disrupting the life of the child victim.
- ◆ Permit parole officers and Mental Health Boards to increase supervision needs and conditions as necessary to provide victim and community safety.
- ◆ Nebraska statutes should declare that DNA analysis is a recognized science useful for establishing identity so Nebraska courts may discontinue their practice of requiring expert testimony on the issue of the validity of the science itself.
- ◆ Require DNA testing for both juvenile and adult sex offenders upon conviction, adjudication or release for those offenders who have not previously been tested.
- ◆ Provide for lifetime supervision of sex offenders who intermittently or continually are at high risk to re-offend.
- ◆ Revise the sex offender registration law to include registration for sex-related crimes; e.g., sexual homicide, false imprisonment.

Administrative changes necessary to support the recommendations of the Working Group include the following:

- ◆ Develop the Governor's Council on the Management and Treatment of Sex Offenders.
- ◆ Develop specialized supervising agents in Adult Parole, Juvenile and Adult Probation, Office of Juvenile Services (OJS) and Child Protective Services (CPS).
- ◆ Develop specialized conditions for supervision.
- ◆ Work from a restorative justice perspective, thus addressing victim and societal needs and rights equally with those of the offender.
- ◆ Determine the appropriate agency placement of polygraph examiners.
- ◆ Adopt standards for mental health sex-offender-specific evaluations.
- ◆ Adopt standards for education, training, and experience for psychiatrists, psychologists, licensed mental health professionals, licensed clinical social workers, and nurses who provide assessment and treatment to sex offenders.

- ◆ Adopt standards for treatment of sex offenders.
- ◆ Develop increased use of the polygraph.
- ◆ Develop a specialized sex offender investigative unit in the State Patrol to provide investigation of sex offenders and training of other law enforcement officers. Utilize this unit in conjunction with Statewide Major Case Investigation Teams.
- ◆ Make available specific information on the sex offense to all decision-makers involved in developing a plan for treating and managing a specific sex offender, including when a sex offense is plea-bargained to a non-sex offense.
- ◆ Create administrative processes to support an interwoven system linking law enforcement, medical professionals, prosecutors, judicial officials, Health and Human Services, mental health, Department of Corrections, Probation, Parole, and other related disciplines.
- ◆ Create administrative processes to link the juvenile and adult sex offender management systems.
- ◆ Create administrative processes to move or inconvenience perpetrators to achieve lack of contact with child victims.
- ◆ Designate the person who has primary responsibility for the child as responsible to protect the child from known perpetrators.
- ◆ Enable Mental Health Boards to enforce recommendations for increased supervision of perpetrators to provide for victim and community safety.

Reallocation of responsibilities in agencies involved in implementing the recommendations of the Working Group include the following:

- ◆ Reallocate some resources within the Investigative Services Division of the State Patrol and the Grand Island Training Center to create sex offender investigation teams.
- ◆ Reallocate resources within DCS to provide pre-release risk-assessment inventories to support quicker assignment of the sex offender to a community notification category by the State Patrol.

Changes in funding necessary to implement the Working Group recommendations include the following:

- ◆ Funding for the Governor's Council on the Management and Treatment of Sex Offenders.
- ◆ Funding for management and treatment of sex offenders which is *separate* from funding allocated to the mental health system.
- ◆ Funding for basic and advanced training of appropriate persons within local law enforcement, HHSS, and DCS, as well as physicians, victim advocates, prosecutors, mental health providers, judicial officials, and

probation, and parole officers, which includes funding for travel expenses (mileage or airfare, meals, and lodging) and wage reimbursement.

- ◆ Funding for instruction expenses such as expert instructors, classrooms, supplies, and related expenses.
- ◆ Funding for mental health sex-offender-specific evaluations.
- ◆ Funding for treatment expenses not covered by insurance or Medicaid.
- ◆ Funding to attract and retain culturally divergent treatment professionals.
- ◆ Funding to support specialized caseloads.
- ◆ Funding for tracking systems
- ◆ Funding for research for changes in legislation
- ◆ Funding for victim services/advocates at all stages of the process
- ◆ Funding for the Regional Major Case Investigation Teams including:
  1. Funds to reimburse local agencies for training officers, wages and travel.
  2. Funds to cross train team members.
  3. Implementation of the Sex Offense Investigative Unit within the State Patrol.

(Funding for the Investigative Unit's operation and training should not be in competition with other law enforcement operations and training i.e. accident reconstruction, auto theft investigation, drug recognition, liquor enforcement, etc.)

4. Funding for a Police Officer Standards Training Board, specific to sex offender issues.

Possible funding sources include the following:

- ◆ Impose a civil assessment on sex offenders to defray the costs of extra measures such as polygraph tests, intensive supervision, and Global Positioning System (GPS) monitoring, recommended to manage this type of offender.
- ◆ Explore funding from the State Patrol and Grand Island Training Center budgets if a reallocation of responsibilities and personnel were performed.
- ◆ Dedicate a percentage of lottery monies
- ◆ Increase the tobacco tax and/or dedicate a portion of the receipts.
- ◆ Pursue grant funding
- ◆ Reallocate funds saved from the use of less costly services, including lifetime supervision and community-based services, in place of more costly correctional or institutionalized treatment services.
- ◆ Explore the possibility of funds from LB 692 (Legislative Session 2001).

## **OVERVIEW OF WORKING GROUP PROCEDURES**

The Governor's Working Group received a charge from the Governor on November 15, 2000 in which the Governor directed the Working Group to define a comprehensive, collaborative system for the management and treatment of sex offenders in the State of Nebraska (see Attachment A). Subsequent to this charge, the Governor's Working Group met a total of fourteen times between December 7, 2000 and July 13, 2001. Each of these meetings typically lasted five to six hours. The Working Group determined that both the urgency and scope of the charge delivered to them from the Governor were indicative of a need for additional data from other professionals and from other states. As a result, the Governor's Working Group developed charges for three Work Teams, each of which was assigned an area for research and for recommendations. Each Work Team was chaired by a member of the Working Group. The three areas of concern assigned to the Work Teams were:

- ◆ Team #1 – Legislative - Attachment B(1)
- ◆ Team #2 – Assessment and Treatment - Attachment B(2)
- ◆ Team #3 – Law Enforcement - Attachment B(3)

The Teams were directed to: (1) assess current practice in the State of Nebraska in their areas of expertise; (2) generate information regarding practice in other states in their area of expertise; (3) assess what is currently effective and what is not effective in Nebraska; and, (4) make recommendations in the areas of legislation, administrative changes, and funding. The Teams began meeting in January 2001, and were charged with presenting a final document to the Working Group by April 15, 2001.

During the time that the Work Teams were functioning, the Working Group met to review interim information and reports from the Teams. In addition, the Working Group generated and shared ideas and information regarding the final recommendations and report to the Governor.

The Working Group utilized a multitude of sources of information in generating and delineating a cohesive, integrated, consistent process for the management and treatment of sex offenders in the State of Nebraska, including the following:



- ◆ The expertise of more than sixty professionals involved in treating and managing sex offenders in Nebraska. These included professionals from law enforcement, probation and parole, the State Patrol, victim advocacy, juvenile justice, developmental disabilities services, community mental health practitioners, HHSS, and DCS.
- ◆ Current and proposed legislation.
- ◆ Manuals, protocols, regulations and standards used by other states in the management and treatment of sex offenders.
- ◆ Original research with individual sex offenders in Nebraska who have participated in sex-offender-specific treatment.
- ◆ Reports and research articles on sex offender treatment and management.
- ◆ The expertise of members of the Working Group, which includes representatives from probation, the State Patrol, HHSS, DCS, the Attorney General's Office, independent mental health practice, and the University of Nebraska-Lincoln.

Based on these sources of information, the Working Group delineated a plan for generating recommendations to the Governor. The plan included the following steps:

- ◆ Generate information on the current system for managing and treating sex offenders in Nebraska.
- ◆ Assess the current system to determine what is effective and what is not effective.
- ◆ Determine and address the barriers to making all elements of the system effective.
- ◆ Delineate Guiding Principles on which to base recommendations.
- ◆ Delineate elements of a central representative body to integrate policy and function in the management and treatment of sex offenders.
- ◆ Delineate recommendations to establish a full continuum of options for services to victims and for the treatment and management of offenders.
- ◆ Generate a document for presentation to the Governor.

On July 13, 2001, the Working Group completed these goals, approved this document and recommended that this document be forwarded to the Governor. The results of the Working Group's assessment of current practice, review of practice in other states, review of legislation, research of current literature, original research, consultation with other professionals and resultant recommendations follow.



## **HISTORY OF THE TREATMENT AND MANAGEMENT OF SEX OFFENDERS IN NEBRASKA**

**(From “Why Nebraska needs Civil Commitment Proceedings for Sex Offenders”, by Don Stenberg Creighton Law Review, Volume 33, No. 4, June, 2000)**

Since 1949, the State of Nebraska has attempted to manage and treat sex offenders through legislative mandate. From 1949 to 1979, Nebraska had a sexual sociopath law, which provided for the indefinite civil commitment of sex offenders who were “determined to be disposed to the repeated commission of sexual offenses likely to cause substantial injury to the health of others.” That law provided for the indefinite confinement of the defendant at a Regional Center (if found to be treatable) or in a prison – if found not to be treatable. The defendant was not eligible for release from custody until a psychiatric evaluation was completed by Regional Center staff and one licensed psychiatrist in general practice, with the county attorney or deputy present at the evaluation and at the presentation of the evaluation to the district court. If the psychiatrists concluded that the defendant was no longer a sexual sociopath, the court could sentence the defendant on the original sex offense, release the defendant on probation, or schedule a new hearing before a jury to allow the jury to decide whether the defendant was still a sexual sociopath.

In 1979, Nebraska repealed the sexual sociopath law and enacted the Mentally Disordered Sex Offender Act (MDSO). Under MDSO, the sentencing court was required to appoint a panel of two physicians - or a physician and clinical psychologist with training in treatment of mental disorders - to evaluate defendants convicted of felony sex offenses. If the panel found that: (1) the defendant met the criteria for MDSO; (2) the disorder was treatable; and (3) the treatment was available in the State, then the defendant would be placed in a Regional Center. The defendant was to remain in a Regional Center until “no longer mentally disordered,” or until “the maximum benefit of treatment,” or until “the maximum length of such offender’s (criminal) sentence.” If a Sentencing Review Committee, appointed by the Governor, determined that the defendant no longer suffered from a mental disorder or had received the maximum benefit of treatment, the defendant would return to the sentencing court for “further disposition” which generally resulted in confinement in the Department of Correctional Services’ facilities for the remainder of the criminal sentence. The defendant would receive credit for time spent at the Regional Center.

The MDSO law required the Department of Correctional Services to give notice to the county attorney in the county of the defendant’s commitment at least ninety days prior to the defendant’s release from custody. MDSO also required the county attorney to initiate mental health commitment proceedings under the Nebraska Mental Health Commitment Act upon receipt of the notice. As a result of this

requirement, Regional Center beds were often occupied by sex offenders who were not willingly participating in treatment. Available beds were often filled and inmates classified as MDSO often waited in prison for available space in a Regional Center program. At one time 34 inmates were detained in the Department of Correctional Services while awaiting a Regional Center placement. A second deficiency in the MDSO law was the fact that the Mental Health Commitment Act provided - and still provides - for the involuntary commitment of persons who are “mentally ill” and dangerous. The term “mentally ill” is a medical/psychiatric term, which may be interpreted to include pedophiles, but generally is not interpreted to include men who sexually assault adult women.

In 1992, MDSO was repealed and replaced with the Convicted Sex Offender Act (CSO). The CSO allows the Regional Center staff to determine who is an appropriate candidate for treatment and when treatment is complete or no longer appropriate. When a defendant receives the maximum benefit of treatment, s/he is returned to court for re-sentencing, which could include a sentence of probation for a period of time not greater than the remainder of the original sentence. The theory behind the CSO law was that after a defendant “received the maximum benefit of treatment” at a Regional Center, the defendant would participate in an “aftercare treatment program” while at liberty in the community, rather than returning to the Department of Correctional Services to serve the remainder of a prison sentence. The statute in the CSO providing for re-sentencing by the court was declared unconstitutional by the Nebraska Supreme Court in 1995 because it invaded the province of the Nebraska Pardons Board and, therefore, violated separation of powers.

CSO provides no mechanism for the civil commitment of sex offenders upon the expiration of their criminal sentences. Psychologists at the Department of Correctional Services have, however, made an effort to notify county attorneys of the approaching release date of sex offenders whom they consider to be extremely dangerous so that county attorneys may initiate mental health commitment proceedings, if they choose. This process, however, is currently discretionary.

## **CURRENT PROBLEMS AND RATIONAL FOR INTEGRATED, COMPREHENSIVE TREATMENT AND MANAGEMENT OF SEX OFFENDERS**

The current system for the treatment, management, and containment of sex offenders in the State of Nebraska is fragmented and ineffective. Multiple professionals in areas of law enforcement, the judicial system, assessment and treatment, probation and parole, and corrections are well trained and committed. Expertise and commitment are not, however, shared across professional boundaries; and criteria for treatment, sentencing and supervision are not consistent. In addition, services available to victims are limited and are not coordinated across agencies. The system, in spite of professional commitment and expertise, reflects the secrecy and compartmentalization synonymous with the dynamics of sexual offending. Treatment and containment options are limited to inpatient, outpatient and correctional facilities. Sex offenders who intermittently over a lifetime pose a danger to others are either unsupervised or are committed to costly inpatient and outpatient facilities. Fiscal resources committed to sex offender treatment and management are depleted by immediate needs rather than invested toward long term goals, including prevention and management of sexual offenders, which increase public safety and assist sex offenders in living productive lives. The current system is a cacophony of well-meaning, poorly coordinated attempts to exercise limited options, which alone are not effective in mitigating the propensity of sex offenders to re-offend. The current reactionary, fragmented system must be replaced with a proactive, cohesive, comprehensive, and integrated approach. Only such a system can substantively reduce the number of Nebraska citizens who become victims of sexual offenses.

## **GUIDING PRINCIPLES**

### **1. Community safety is paramount.**

The highest priority among these Guiding Principles is community safety. Community safety takes precedence over any conflicting consideration and ultimately is in the best interest of the sex offender and his/her family. It is imprudent to release an untreated sex offender into the community without requiring a sex-offender-specific evaluation, treatment, and/or specialized supervision. Community safety is best served with a range of comprehensive options including civil commitment, outpatient commitment, long term and/or lifetime probation/parole, and periodic mandatory risk evaluation.

Changes in the parameters of confidentiality normally inherent in juvenile proceedings can enhance community safety. All members of the team managing and treating each sex offender must have access to relevant information. Such “team members” include mental health professionals engaged in diagnosing or treating the offender (regardless of where such professionals are employed), probation officers and parole officers responsible for supervision of the offender; institutional administrators responsible for assigning custody or security levels for the offender; law enforcement investigators assigned to investigate crimes allegedly perpetrated by the offender; and, within constitutional limitations, prosecutors and sentencing judges. Prosecutors should have access to all relevant information regarding a sex offender’s prior sexual behaviors, whether or not such behaviors may have led to prior convictions, and should use due diligence to take such information into consideration when charging the offender. Judges should have access to such information for consideration in sentencing the offender. Information available to judges through pre-sentence investigations should include the sex offender’s history of juvenile arrests and adjudications, an initial comprehensive mental health sex-offender-specific evaluation, the offender’s medical and mental health treatment records, and the offender’s institutional history including a history of disciplinary actions imposed during prior incarcerations.

### **2. Victims have a right to safety and self-determination.**

Victims have the right to determine the extent to which they will be informed of an offender's status in the criminal justice system and the extent to which they will provide input through appropriate channels to the offender management and treatment process. In the case of adolescent or child victims,

and “vulnerable adult” victims, custodial adults and/or guardians ad litem should act on behalf of the victim to exercise these rights in the best interest of the victim.

Victims have a right not to be subjected to unnecessary expense, inconvenience, and mental anguish in the criminal justice system. Victims have a right to support and resources to assist them no matter what the outcome of the legal investigation.

### **3. Sex offenders are dangerous.**

When a sexual assault occurs there is always a victim. Both the literature and clinical experience tell us that sexual assaults have devastating effects on the lives of victims and their families.

There are many forms of sexual offending. Offenders may have more than one pattern of sexual offending behavior and often have multiple victims. The propensity for such behavior is often inherently covert, deceptive, and secretive. Untreated sex offenders also commonly exhibit varying degrees of denial about the facts, severity and/or frequency of their offenses.

Sex offending behaviors occur across all segments of society including age, gender, cognitive functioning, culture, and socioeconomic status. Sensitivity to these differences in the management and treatment of sex offenders does not mitigate the necessity of holding sex offenders responsible for their offending behaviors. Sex offenders with developmental disabilities pose as clear a threat to society, are as responsible for their actions, have the same need to be held accountable and the same right to treatment as sex offenders without developmental disabilities. Accountability and the right to treatment are equally applicable to all sex offenders.

A sex offender’s prior sex offenses are highly relevant to issues of motive, intent, preparation, plan, identity, or absence of mistake or accident, even if such offenses involve different classes of victims or different circumstances. The broader the variety of a sex offender’s victims and the more diverse the circumstances of the offenses, the more dangerous and the less receptive to treatment the offender is likely to be.

Some offenders may be too dangerous to be placed in the community and other offenders may require lifetime monitoring to minimize the risk to the community. Lifetime sex offender registration is needed for certain sex offenders who pose significant risk of re-offending.

**4. Sex offenders must be held accountable for their behaviors. Assignment to community supervision is a privilege.**

Due to the dynamics of sexual offending, without external pressure sex offenders will not successfully complete treatment or abide by treatment, probation/parole requirements, or sex offender registration requirements. Sex offenders on community supervision must agree to intensive and sometimes intrusive accountability measures that enable them to remain in the community rather than in prison. Offenders carry the responsibility to learn and demonstrate accountability and to earn the right to remain under community supervision. Sex offenders must assume responsibility for their actions by making restitution for their crime(s) and by bearing financial responsibility for their special supervision needs.

**5. Individuals with a pattern of inappropriate sexual behaviors can be treated but not cured.**

Sexual offenses are defined by law and may or may not be associated with or accompanied by the characteristics of sexual deviance that are described as paraphilias. Some sex offenders also have co-existing conditions such as mental abnormalities, personality disorders, organic disorders, or substance abuse problems. Sexual offenders are different from other kinds of criminals. A sex offender may be motivated by psychological and physiological factors reinforced by patterns of sexual ideation and persistently practiced behavior.

Many offenders can learn through treatment to decrease their risk of re-offense. Such behavioral management should not, however, be considered a "cure," and successful treatment cannot permanently eliminate the risk that sex offenders may repeat their offenses. Prevention of sex-offending behavior is a life-long task for the sex offender.

Treatment of sex offenders is a lengthy process. Short-term incarceration does not facilitate treatment. Because a pattern of inappropriate sexual behaviors is predictive of future sexual offenses, the option to increase the length of an offender's incarceration should be available if the offender has exhibited such a pattern of offenses.

**6. Assessment and evaluation of sex offenders is an ongoing process. Progress in treatment and level of risk are not constant over time.**

The effective assessment and evaluation of sex offenders is an ongoing process. Management and treatment of sex offenders are not linear processes. Due to the nature of offense patterns and cues, which may trigger those patterns of offense, a sex offender's risk to the community is variable over



time. Even with successful treatment and management, progress cannot be assumed to be permanent.

7. **When a child is sexually abused, the child's individual need for safety, protection, developmental growth and psychological well being are paramount to recovery.**

With regard to policy and practice in the placement of child victims, their interests supersede any parental, family, or perpetrator interests. All aspects of the community response and intervention system should be designed to promote the best interests of children rather than focusing primarily on the interests of adults, including the perpetrator. This includes the child's right not to live with or in close proximity to the sex offender, regardless of the sex offender's relationship with the child. In most cases, the offender should be moved or inconvenienced to achieve the lack of contact, rather than further disrupting the life of the child victim. The adult who has primary custody of the child should be held responsible for the child's safety, and the child should be shielded from threats, coercion, or other unwanted contact by the perpetrator.

8. **It is in the best interest of public safety for each community to have access to a continuum of sex-offender management and treatment options.**

Community safety is enhanced when a continuum of sex offender management and treatment options is accessible to each community in the State. These options should be equally available to juvenile offenders and to offenders with developmental disabilities. Such a continuum should provide for an increase or decrease in the intensity of treatment and monitoring based on offenders' changing risk factors, treatment needs and compliance with supervision conditions.

9. **Assessment, treatment, and management of sex offenders require both consistent standards and guidelines and a coordinated response from all involved agencies and entities.**

Implementing consistent standards and guidelines for assessment, treatment, and management of sex offenders, though critical, will not impact positively on public safety unless involved agencies and entities share information and coordinate interventions. Each discipline brings to the team specialized

knowledge and expertise. Information provided by each member of an offender case management team contributes to a more thorough understanding of the offender's risk factors and needs, and to the development of a comprehensive approach to treating and managing the sex offender.

All members of the team (e.g. investigators, prosecutors, parole officers, HHSS, and DCS) who manage and treat each sex offender must have access to relevant information. Sex offenses are committed in secret and all forms of secrecy potentially undermine the rehabilitation and continuity of care of sex offenders and threaten public safety.

**10. Effective sex offender assessment, evaluation, treatment and behavioral monitoring are non-discriminatory, therapeutic, humane, and bound by the rules of ethics and law.**

Individuals and agencies carrying out the assessment, evaluation, treatment and behavioral monitoring of sex offenders must be sensitive to racial, cultural, religious, developmental, gender, sexual orientation, disability and socioeconomic issues. Sex offenders must be treated with dignity and respect by all members of the team that is managing and treating the offender regardless of the nature of the offender's crimes or conduct.

**11. Family, friends, employers and members of the community who have influence in sex offenders' lives are resources in the successful treatment and management of sex offenders.**

Sexual assault is a community issue. Addressing the myths and understanding the dynamics concomitant with sexual assault through education and dialogue enhance community safety. The secrecy synonymous with sexual offending heightens public fear and effectively limits the public's ability to participate in the management of sex offenders. Helping the offender to develop a community support system (consisting of friends, family members, and employers who are aware of the offender's criminal history, are supportive of the community supervision plan, and can recognize the sex offender's risk factors) is critical to both treatment and management of the sex offender.

**12. Initial and ongoing education and training of each participant in the sex-offender criminal justice process is paramount.**

Education at each level of the investigation, prosecution, and sentencing process is imperative. Consistency is needed in the handling of sexual assault

cases. Achieving consistency Statewide for improved investigation and prosecution is the goal.

**13. Prevention and early intervention can reduce the incidence, severity, and impact of sexual assaults.**

Sexual assault is a public health issue to which all Nebraska citizens are vulnerable. Prevention is a key component in a system to manage sex offenders. Community education, early detection and early intervention not only increase public safety, but are also positive factors in the potential for many sex offenders to function as productive members of society.

**14. Outcome-based research provides information necessary to maintain and improve a state-of-the-art system for the management and treatment of sex offenders.**

Ongoing outcome studies provide information critical to decision-making regarding components of assessment, treatment and management of sex offenders. In addition, this information can measure fiscal efficacy and responsible use of resources.

## WORKING GROUP RECOMMENDATIONS

### 1. DEVELOP A GOVERNOR'S COUNCIL ON THE MANAGEMENT AND TREATMENT OF SEX OFFENDERS

The Governor's Working Group on the Management of Sex Offenders strongly recommends the development of a Governor's Council on the Management and Treatment of Sex Offenders to design and implement multi-agency collaboration, explicit policies and consistent practices.

**RATIONALE:** The management and treatment of sex offenders poses an enormous challenge for policymakers. Sex offenders evoke fear and their offenses can result in lifelong consequences for victims. Children, who are among the most vulnerable members of society, are the most frequent victims of sex offenses.

National research indicates that the number of sex offenders in state prisons has more than quadrupled in 14 years, increasing from 20,500 in 1980 to 88,100 in 1994. (Peter Finn, *Sex Offender Community Notification*, National Institute of Justice, U.S. Department of Justice, February 1997.) The number of prisoners sentenced for sexual assaults other than rape increased by an annual average of nearly 15 percent – faster than any other category of violent crime. (*Id.* At 18.) Research also confirms the fact that most of the victims of sex offenders are children. The 1997 Department of Justice report indicates that: (1) two-thirds of imprisoned sexual-assault offenders reported that their victims were younger than 18; and (2) nearly four in 10 imprisoned rapists reported that their victims were 12 years of age or younger. Research further indicates that every 5 minutes in America, nearly 30 children are molested (American Humane Association, 1995) and someone is forcibly raped (Federal Bureau of Investigation, 1995). One in eight women is raped during her lifetime—nearly one third before age eleven – and 84% of these rapes are never reported to the police (Kilpatrick, Edmunds, & Seymour, 1992). According to *Rape in America: A Report to the Nation* (Kilpatrick et al., 1992), only 22% of rape victims were raped by strangers. This means that the majority of rapists – nearly four out of five – had extraordinary access to their victims and sufficient privacy to commit the offense.

In Nebraska, the number of sex offenders, both adult and juvenile, on probation throughout the State rose from 451 in 1998 to 673 in 1999. During that same time period the number of sex offenders committed to the Regional Centers by Mental Health Boards doubled. Many of the nearly 700 sex offenders incarcerated at DCS or as patients within HHSS refuse both DCS and HHSS treatment programs. Offenders who refuse to participate in treatment are often the most dangerous offenders with a high potential to re-offend. Due to dangerousness and a refusal to participate in treatment, these offenders are the most likely to be civilly committed at the completion of their sentences. These commitments are stressing the Regional Centers due to their increasing numbers and decreasing treatment response by the offenders. In 1997, 430 sex offenders were registered with the State Patrol. Today over 1350 sex offenders are registered. An average of 30 new sex offenders is added to the registry each month for a yearly total of approximately 360. Since January 1997, 196 sex offenders from other states have registered in Nebraska. Approximately 1/3 of the total offenders registered are classified as high risk to re-offend. Evidence exists that the national trend is reflected in the State of Nebraska.

Management, containment, and treatment of the burgeoning number of sex offenders in Nebraska are the responsibility of multiple agencies and systems. These include Probation, Parole, the State Patrol, HHSS, DCS, local police departments, the court system, victim services, and private providers. These agencies and systems represent multiple areas of expertise. However, little information is shared among decision-makers and no consistent standards exist to delineate a cohesive, effective system for responding to the public need to be protected from sex offenders. In "Partnering in Response to Sexual Violence," David D'Amora and Gail Burns-Smith note:

Professionals in the treatment, victim advocacy, and criminal justice fields have struggled with the enormous scope of sexual violence for years. Each of these systems has worked to develop more effective approaches to address the individual and societal issues involved. A variety of successes have been achieved in each of these fields, including better treatment outcomes, changing social views, and more successful prosecution and accountability. At the same time, we have not been able to decrease the problem. Despite our best efforts, sexual violence remains a pervasive societal problem, and, when the system responds inadequately to offender behavior, victims can be further hurt by system-induced trauma.

Unfortunately, despite the commitment and expertise of individuals and the attempts by agencies to increase efficacy in the management and treatment of sex offenders, the fragmentation of the current system fosters secrecy, compartmentalization, and inconsistency. Such characteristics create system gaps that allow offenders to position themselves to re-offend.

Criminal justice professionals in jurisdictions across the country have begun to reform many current practices that inadvertently give sex offenders opportunities to re-offend. Strategies critical to provide effective sex offender management and treatment include multi-agency collaboration, explicit policies, and consistent practices that combine case evaluation and risk assessment, sex offender treatment, and intense community supervision that continues as long as the sex offender poses a threat to re-offend.

The Governor's Council on the Management and Treatment of Sex Offenders would be a permanent inter-agency round table of representatives of public and private entities with the ability to commit resources toward the development and implementation of an integrated response to sex offenders and their victims. The Council would include at least one representative from each of the following entities:

- ◆ Public elements (most representatives would be agency heads or their designees):
  - Court system
  - HHSS
  - DCS
  - Probation Board
  - Parole Board
  - Higher Education (public and private)
  - Secondary and Elementary Education (public and private)
  - Law Enforcement
  - Training Entities
- ◆ Private elements:
  - Victim services
  - Private therapists
  - Private treatment agencies
  - Victim and family (or representative)

Functions of the Council would include the following:

- ◆ Generate strategic planning, goal setting, and process evaluation for the entire system.
- ◆ Facilitate communication to ensure a system perspective.
- ◆ Ensure a focus on sex offenders and persons impacted by them.
- ◆ Coordinate activities related to the identification, treatment and management of sex offenders within different parts of the system.
- ◆ Facilitate the sharing of expertise and other resources, including technological resources, among agencies.

- ◆ Provide a forum for sharing knowledge and information regarding state-of-the-art methods for the assessment, treatment and containment of sex offenders and provide consultation and assistance in technical and procedural issues.
- ◆ Collaborate with training/certifying bodies regarding curriculum and development of resources for training.
- ◆ Develop standards for sex offender assessment, investigation, supervision, treatment, training, and aftercare.

In addition to this interagency council, subordinate teams would be formed to accomplish more specific tasks. Depending on the task, each team may meet at different points and with different frequency during the management of a single case.

### **IMPLEMENTATION:**

Recommended legislative changes necessary to establish the Governor's Council on the Management and Treatment of Sex Offenders include the following:

- ◆ Legislation to support the exchange of information among agencies/entities involved in treating and managing sex offenders.
- ◆ Legislation to create the Governor's Council on the Management and Treatment of Sex Offenders.

Administrative changes necessary to establish the Governor's Council on the Management of Sex Offenders include the following:

- ◆ Development of the Council.
- ◆ Make available specific information on the sex offense to all decision-makers involved in developing a plan for treating and managing a specific sex offender, particularly when a sex offense is plea-bargained to a non-sex offense.
- ◆ Create administrative processes to support an interwoven system linking law enforcement, medical professionals, prosecutors, judicial officials, Health and Human Services, mental health, Department of Correctional Services, Probation, Parole, and other related disciplines.
- ◆ Create administrative processes to link the juvenile and adult sex offender management systems.

Funding requirements to support the Governor's Council on the Management and Treatment of Sex Offenders include the following:

- ◆ Funding to provide professional and support staff services to the Council.
- ◆ Funding for travel expenses (mileage, meals and/or lodging) for members of the Council as necessary.

Possible funding sources include the following:

- ◆ Funding from LB692 (Legislative Session 2001).
- ◆ Funding from lottery monies.
- ◆ An increase in tobacco tax.
- ◆ Grant funding.
- ◆ Ultimately, establishment of the Council and implementation of the other recommendations made by the Governor's Working Group would result in less use of costly services through correctional or institutionalized treatment services.

## **2. FACILITATE INFORMATION SHARING**

The Governor's Working Group recommends that all agencies and decision-makers in the treatment and management of sex offenders have access to all available information. The Governor's Council would have the responsibility of facilitating information sharing when current barriers are effectively removed. Legal restrictions, agency policy and lack of communication among agencies currently limit the sharing of information.

**RATIONALE:** Sex offenders act in secrecy and the lack of shared information creates opportunities for the sex offender to re-offend. Decisions at every stage of management and treatment of sex offenders are based on incomplete information and, therefore, are not responsive to the specific history and offense pattern of the individual offender. Gaps in management and treatment make it easier for the offender to re-offend.

Other concerns regarding lack of communication include the following:

- ◆ Pre-sentence investigation information is not available to the State Patrol and, therefore, cannot be used for risk assessment for community notification and may not be available to treatment providers.
- ◆ DCS and HHSS mental health treatment records are not available to parole officers, parole board or outside treatment providers without a court order or the offender signing a release of information. Without information sharing, parole board members and supervising officers may not know offense cycles, high risk factors, etc., that could be incorporated into the parole plan.
- ◆ Lack of information to victims or victim treatment providers may lead to the system re-victimizing the individual to protect the offender.



- ◆ Sex offenders are generally not forthcoming about the scope and frequency of their deviant sexual activity. Without knowledge of the significant planning involved in sex offenses, professionals cannot identify the modus operandi of each offender. Without this shared information, therapists and criminal justice professionals cannot deliberately interrupt the planning behaviors and aggressively contain the offender.
- ◆ Plea-bargaining of sexual crimes to non-sex crimes may minimize the seriousness of the behavior and can inadvertently reinforce an offender's denial of the crime. In addition, plea-bargaining may preclude the sharing of information regarding the factual basis of the crime and, therefore, preclude referral for treatment and/or containment concomitant with the offense.
- ◆ Treatment information from DCS and HHSS to the State Patrol and to the Parole Board is extremely limited and almost nonexistent with Parole Officers. This lack of information negatively impacts on the process of risk assessment and on delineation of appropriate supervision, probation, and/or parole planning.
- ◆ Cohesive, effective, and integrated treatment and management planning for sex offenders are critical for optimum outcomes. Effective treatment is precluded by decisions made on the basis of incomplete information.

### **IMPLEMENTATION:**

Recommended legislative changes necessary to allow for sharing of information among agencies include the following:

- ◆ Legislation to support the exchange of information among agencies/entities involved in treating and managing sex offenders.
- ◆ Enactment of legislation similar to LB 940 (2000 Legislative Session) to require clerks of the court to notify the superintendent of the public school district or the governing authority of the private, denominational, or parochial school where a student attends when he/she is adjudicated delinquent based upon the commission of a sex offense. Information shared would include (1) the identity of the student/sex offender, (2) the court in which the student/sex offender was convicted or adjudicated, (3) the date of the conviction or adjudication, (4) the court docket number, and (5) the sex offense for which the student/sex offender was convicted or adjudicated delinquent.
- ◆ Within constitutional limitations, prosecutors should have access to all relevant information regarding a sex offender's prior sexual behaviors, whether or not such behaviors may have led to prior convictions, and should use due diligence to take such information into consideration when charging the offender. Judges should have access to such information for consideration in sentencing the

offender. Information available to judges through pre-sentence investigations should include the sex offender's history of juvenile arrests and adjudications, an initial comprehensive mental health sex-offender-specific evaluation, the offender's medical and mental health treatment records, and the offender's institutional history including a history of disciplinary actions imposed during prior incarcerations.

- ◆ Amend Nebraska statutes to recognize that prior sex offenses of a defendant charged with a new sex offense may be admissible under Nebraska Rule of Evidence 404, whether or not the prior offenses are of a "signature" nature.

Recommended administrative changes necessary to allow for exchange of information include the following:

- ◆ Make available specific information on the sex offense to all decision-makers involved in developing a plan for treating and managing a specific sex offender including when a sex offense is plea-bargained to a non-sex offense.
- ◆ Create administrative processes to link the juvenile and adult sex offender management systems.

### **3. INCREASE PREVENTION SERVICES**

The Governor's Working Group on the Management of Sex Offenders recommends that the Governor's Council, in conjunction with agencies and individuals involved in the management and treatment of sex offenders, design and implement a comprehensive continuum of prevention services.

**RATIONALE:** When persons are poorly informed or are ignorant of the dynamics of sexual offenses, their victim potential increases. Shame, fear, denial, and perceived helplessness by the public in response to sexual offenses create a climate in which sexual perpetrators can groom victims more easily. Knowledge is power in the goal to decrease the number of victims of sexual assault. Prevention services can provide the knowledge necessary to protect oneself and one's family.

Currently, prevention services are similar to the treatment and management of sex offenders in that interventions to prevent sexual offenses are fragmented. The most comprehensive effort to prevent sex offenses is the State Patrol risk assessment and notification program. Through this program, sex offenders are assessed as low, medium or high risk to re-offend. The names of high-risk offenders are publicized in some areas. This program, which is critical to the goals of prevention, is not, however, sufficient to provide a full continuum of prevention services. Optimally, prevention services will include: (1) primary prevention to educate the general

population; (2) secondary prevention for members of the population who *may be* at higher risk to be victimized or become perpetrators; (3) services to persons who are the highest risk to be victimized; and (4) early intervention for perpetrators.

Other issues regarding preventive services, which could be designed and implemented through the Governor's Council, include the following:

- ◆ The community should be educated and prepared for the release of sex offenders through the use of community forums and public education programs to supplement the information on high-risk offenders provided by the State Patrol.
- ◆ Public awareness campaigns and media coverage that encourage a realistic, rational and safe response should be undertaken.
- ◆ The media must play a key role in educating the community about sex offenses and sex offenders. The media should promote public awareness regarding the complexity of the problem and the fact that there is a wide range of offenders representing various degrees of risk.
- ◆ Education is needed on identification and reporting sexual assaults, especially for school personnel, mental health providers and the clergy.
- ◆ Statewide education is needed regarding sexual assault trauma, regardless of victim age or gender.
- ◆ Education is needed on sex offending cycles, risks, and patterns for court officials, law enforcement, and county attorneys.
- ◆ Community education on preventing sex offenses in churches, schools, PTA., etc. is needed.

### **IMPLEMENTATION:**

Recommended legislative changes necessary to increase prevention services include the following:

- ◆ Mandate child-safety/protection curricula in the schools. Research has demonstrated that positive, comprehensive, empowering content will not frighten children, but rather will empower them to deal with the challenges they may encounter. States have a key role in ensuring that these basic messages are taught to children.

Recommended administrative changes necessary to enhance prevention services include the following:

- ◆ Develop coordinated education programs and curricula for all groups identified above to enhance public awareness of the individual's role in preventing sex offenses.

#### **4. INCREASE VICTIM SERVICES**

The Governor's Working Group recommends an increase in victim services. The Governor's Council on the Management and Treatment of Sex Offenders, in conjunction with agencies and individuals involved in the management and treatment of sex offenders, should design and implement a comprehensive continuum of victim services.

**RATIONALE:** The effects of sexual assault on victims are often brutal and long lasting. While supervision agencies have traditionally been offender-focused in their work, the most comprehensive and responsible approaches to the community management of sex offenders are those which focus on the needs and safety of both past and potential victims of sexual assault.

Potential enhancements in victim services include the following:

- ◆ Engage victim advocates and other victim service providers in managing sex offenders in the community.
- ◆ Increase the availability of therapeutic treatment to child victims of sexual assault at each developmental milestone when the effects of the assault can be most acute and can have a negative impact on normal and expected development.
- ◆ Information provided to the general population to enhance prevention can also result in early detection. Early detection of the offense and early treatment of the victim are critical for the victim's optimum recovery.
- ◆ Training is needed for all persons who respond to the victim. Research indicates that the single most important factor in the potential for recovery is the immediate response to the victim.

#### **IMPLEMENTATION:**

Recommended legislative changes necessary to increase victim services include the following:

- ◆ Enact legislation such as that proposed in LB 564 (2001 Legislative Session), as it would amend Section 29-4009 of the Nebraska Statutes. This legislation would recognize the right of a victim to be notified of the whereabouts of the victim's assailant, regardless of whether the offender is classified as low, moderate or high risk.
- ◆ Amend Nebraska Rule of Evidence 404 so as not to require the personal appearance of victims at Rule 404 hearings. Victims' testimony on prior crimes or "bad acts" should be admissible by affidavit at such hearings, as it is in the federal court system and in other states.

- ◆ To promote the best interests of children who have been victims of sexual assault, the perpetrator should be moved or inconvenienced to achieve lack of contact rather than further disrupting the life of the child victim.

Possible funding sources include the following:

- ◆ Development of a Victim Reparation Fund, funded by offenders.
- ◆ LB 692 (Legislative Session 2001).
- ◆ Lottery monies.
- ◆ Increase in tobacco tax.

Administrative changes necessary to increase victim services include the following:

- ◆ To promote the best interests of children who have been victims of sexual assault, the perpetrator should be moved or inconvenienced to achieve lack of contact rather than further disrupting the life of the child victim.
- ◆ Designate the person who has primary responsibility for the child as responsible to protect the child from known perpetrators.
- ◆ Ensure that all decision-making regarding management and treatment of sex offenders includes the query, “What is best for the victim(s)?”

## **5. INCREASE PAROLE AND PROBATION OPTIONS**

The Governor’s Working Group recommends increased parole and probation options dependent on the needs of a specific offender, i.e. increase resources to allow for supervision level necessary to meet supervisory needs.

**RATIONALE:** Sex offender supervision and progress in treatment are not linear, incremental, nor static and must be consistently re-assessed. Progress is multi-dimensional; high risk can exist despite progress on many dimensions. Risk in any single dimension must be taken seriously. Currently, sanctions for violations of probation and parole are not timely and varied sanctions are not available unless the offender violates the conditions of probation or parole. The Working Group recommends an increase in sanctions available prior to the necessity of additional adjudication. The Working Group recommends that the Governor’s Council on the Management and Treatment of Sex Offenders work with existing resources, access information from other states, and work with probation and parole entities to implement additional options. These options would serve as a leverage with the offender and would help interrupt the offense cycle before the conditions of community supervision are violated. Recommendations from the Working Group

include the adoption of sex-offender-specific conditions of parole and probation. Without this constant pressure to adhere to the behavioral expectations detailed in the conditions of supervision and the treatment contract, community safety is dependent on the goodwill of the offender. Even the most motivated offender needs serious consequences leveraged on his/her behalf to support him or her in moments of dangerous weakness. External controls and meaningful consequences that can occur only within a legal environment are critical for the containment of the offender and for optimum safety for the community (see ATTACHMENT C for examples of parole/probation conditions in other states).

### **IMPLEMENTATION:**

Legislative changes to support an increase in probation and parole options include the following:

- ◆ Allow probation and parole officers to increase supervision needs and conditions as necessary to provide victim and community safety.
- ◆ Provide for lifetime supervision of sex offenders who intermittently or continually are at high risk to re-offend.
- ◆ Eliminate flat-time release with no supervision for sex offenders.
- ◆ Hold offenders accountable by charging fees for adjunct provisions to supervision such as satellite tracking and polygraphs, as well as for restitution to a Victim's Reparation Fund to help offset costs of victim medical and psychological treatment, legal fees, etc.
- ◆ Allow more leeway for parole and probation officers to modify conditions so that increased restrictions can be utilized when the offender is non-compliant, involved in high-risk behavior related to the offense cycle, etc. This may involve referral to more intense therapy, return to electronic monitoring, use of satellite tracking, etc.

Administrative changes necessary to support an increase in probation and parole options include the following:

- ◆ Develop specialized conditions for supervision of sex offenders.
- ◆ Develop specialized supervising agents in Adult Parole, Juvenile and Adult Probation, Office of Juvenile Services (OJS) and Child Protective Services (CPS).

- ◆ Ensure that specialized supervising agents have specialized training about sex offenders.
- ◆ Due to the need for more intensive supervision, limit the caseloads of probation and parole officers who supervise sex offenders.
- ◆ Ensure that community supervision includes individualized restrictions on high-risk activity (e.g., no unsupervised contact with minors, no alcohol/drug use, etc.).
- ◆ Enable the use of polygraphs during community supervision.
- ◆ Ensure that supervision incorporates “relapse prevention” to identify precursors to offending. The supervising officer should have knowledge of and monitor these individual precursors.

Funding changes concomitant with an increase in probation and parole options include the following:

- ◆ Less costly services, including lifetime supervision and community-based services, will result in less use of more costly correctional and/or institutionalized treatment services.

## **6. MANDATE LIFETIME SUPERVISION FOR SELECT SEX OFFENDERS ON PAROLE WHO CONTINUE TO POSE A DANGER TO OTHERS.**

The Working Group recommends that the Governor’s Council on the Management and Treatment of Sex Offenders, in conjunction with the Department of Correctional Services, the Judicial Branch, and the Parole Board, establish criteria and procedures for lifetime supervision of sex offenders who continue to pose a threat of re-offending.

**RATIONALE:** In order to best ensure community safety, the full continuum of containment options must be available for all offenders. The most effective management of sex offender risk begins with interventions that offer the highest levels of containment, which may include supervised residential settings and intensive supervision programs. The rationale for lifetime supervision is based on several assumptions including:

- ◆ Sex offending can be a life-long, chronic pattern of abusive behavior.
- ◆ Sex offenders often can control sex offending behavior, but do not always voluntarily choose to do so.

- ◆ Lengthy probation or parole terms allow supervising officers to respond diligently to offender risks and needs.
- ◆ It is wiser to decrease probation terms as offenders progress than to lack the ability to increase them when more supervision and surveillance is necessary.

Proponents of lifetime supervision assert that sex offending is multi-generational in nature and that future victimization may be avoided through ongoing and extended surveillance and treatment. Such close supervision and surveillance may also improve the ability of supervision officers to prevent or detect changes in offenders' behavior patterns, crossover to other types of sex offending, lifestyle changes, or a shift to a new victim group. (Center for Sex offender Management. *Lifetime Supervision for Sex Offenders: Emerging Practices and Their Implications*. Silver Spring, MD.) (See ATTACHMENT D for conditions of lifetime supervision practiced in other states).

Recommendations concomitant with the recommendation for lifetime supervision include the following:

- ◆ Use the polygraph to gain baseline information and to assess behaviors, thoughts and fantasies that the sex offender does not share with the supervising officer and/or with his/her therapist.

### **IMPLEMENTATION:**

Legislative changes necessary to support lifetime parole for sex offenders who continue to pose a risk of re-offense include the following:

- ◆ Establish criteria and conditions of lifetime parole for sex offenders who intermittently or continually are at high risk to re-offend.
- ◆ Eliminate flat-time release with no supervision for sex offenders.

Administrative changes necessary to support lifetime parole include the following:

- ◆ Establish criteria and conditions of lifetime parole.
- ◆ Develop specialized supervising agents in Adult Parole.
- ◆ Develop and provide specialized training for supervising agents.
- ◆ Establish specialized sex offender supervision units.
- ◆ Due to the need for more intensive supervision on lifetime parole, limit the caseloads of parole officers who supervise sex offenders on lifetime parole.



- ◆ Ensure that supervision incorporates “relapse prevention” to identify precursors to offending. The supervising officer should have knowledge of and monitor these individual precursors.

Funding requirements to implement lifetime supervision include the following:

- ◆ Funding to allow specialized sex offender caseloads to be limited in number.

Funding sources and information:

- ◆ According to the Center for Sex Offender Management (August 2000) one year of intensive supervision and treatment in the community can range in cost between \$5,000 and \$15,000 per offender, depending on treatment modality. The average cost for incarcerating an offender is significantly higher, approximately \$22,000 per year, excluding treatment costs.
- ◆ A civil assessment on sex offenders may be possible to defray the costs of extra measures (such as polygraph tests, intensive supervision, and Global Positioning System (GPS) monitoring) recommended to manage this type of offender.
- ◆ LB692 (Legislative Session 2001).
- ◆ Lottery monies.
- ◆ Increase tobacco tax.
- ◆ Grant funds.

## **7. INCREASE THE USE OF CLINICAL ASSESSMENT PRIOR TO SENTENCING**

The Governor’s Working Group recommends a consistent, systematic use of clinical assessment of the sex offender after conviction and prior to sentencing.

**RATIONALE:** It is critical that sentencing judges have information regarding the following factors:

- ◆ The treatment needs of the sex offender.
- ◆ The offender’s level of risk for re-offending.
- ◆ Specific recommendation for the conditions of treatment and supervision.
- ◆ Information that will assist in identifying the optimal setting, intensity, intervention and level of supervision required for a specific offender.
- ◆ Information that would preclude community-based treatment.

Currently, pre-sentence clinical assessments are rarely employed as a tool for the sentencing court. As with other facets of the current management and treatment of sex offenders, the sentencing court makes treatment and containment decisions based on incomplete information. As noted previously, many sex offenders will use such

situations to re-offend. It is critical that the courts have access to a mental health sex-offender-specific evaluation to make decisions, which are best designed to preclude re-offending, and, therefore, which best protect the public.

In addition, specific standards for sex-offender-specific mental health evaluations should be delineated. Mental health professionals who complete such evaluations must be trained in the assessment of sex offenders and must have access to ongoing training and consultation.

### **IMPLEMENTATION:**

Administrative changes necessary to implement the usual and appropriate use of pre-sentencing mental health sex-offense specific evaluations include the following:

- ◆ Adopt standards for mental health sex-offender-specific evaluations (see ATTACHMENT E for an example of standards for sex-offender-specific evaluations utilized in other states).
- ◆ Make available specific information on the sex offense, risk factors, optimum plan of treatment and/or containment, offense cycle, and optimum supervision conditions to all decision-makers.

Changes in funding implicit in increased use of mental health sex-offense specific evaluations include the following:

- ◆ Funding for mental health sex-offender-specific evaluations.

Possible funding sources include the following:

- ◆ Adopt a civil assessment on sex offenders to defray some of the costs of extra measures (such as polygraph tests, intensive supervision, and Global Positioning System (GPS) monitoring) and treatment necessary to manage this type of offender.
- ◆ Percentage of lottery monies.
- ◆ LB692 (Legislative Session 2001).
- ◆ Increase in tobacco tax.
- ◆ Grant funding.

## **8. INCREASE TRAINING OPPORTUNITIES FOR ALL PROFESSIONALS INVOLVED IN THE TREATMENT AND MANAGEMENT OF SEX OFFENDERS**

The Governor's Working Group recommends increased opportunities for specialized training for all persons involved in the management and treatment of sex offenders.

This recommendation includes investigators; prosecuting attorneys; judges; probation and parole officers; HHSS; DCS; private providers of treatment; victim advocates and medical personnel.

**RATIONALE:** In the current system, providers of services concomitant with treatment and management of sex offenders may receive little or no training specific to this task. To address the current fragmentation of the system's response to sex offenders and to increase the efficacy of that response, it is critical that specialized training opportunities be initiated for all professionals involved. In addition, cross-training allows physicians to learn the evidentiary issues prosecutors face, law enforcement officers and prosecutors to learn about common reactions to trauma from rape crisis counselors, and victim advocates to learn more about the criminal justice system so that they can better help victims prepare for court. Such training will also increase consistency at all stages of sex offender management, from investigation through prosecution and sentencing to assessment, monitoring, and treatment.

### **IMPLEMENTATION:**

Administrative changes necessary to implement the recommendation for increased specialized training include the following:

- ◆ Adopt standards for the treatment and assessment of sex offenders. Include specific areas of required training.
- ◆ Adopt standards for certification of psychiatrists, psychologists, licensed mental health professionals, licensed clinical social workers, and nurses who provide assessment and treatment to sex offenders.
- ◆ Provide cross training among treatment, law enforcement, court, probation/parole, and private providers of treatment.
- ◆ Develop an approved provider list from which to select professionals to complete assessments and/or to provide treatment for sex offenders.
- ◆ Develop basic and advanced training for local law enforcement, HHSS, DCS, physicians, victim advocates, prosecutors, mental health providers, judicial officials, probation, and parole officers.
- ◆ Create administrative processes to support an interwoven system linking all professionals who provide management and treatment to sex offenders.

Funding requirements to implement the recommendation for increased specialized training include the following:

- ◆ Development of basic and advanced training for involved professionals. This includes funding for travel expenses (mileage, meals, and lodging) and wage reimbursement.
- ◆ Funding for instruction expenses such as expert instructors, classrooms, supplies, and related expenses.
- ◆ Funds to cross-train team members.

Possible funding sources include the following:

- ◆ Funding may be available from the State Patrol and Grand Island Training Center budgets if a reallocation of responsibilities and personnel were performed.
- ◆ Percentage of lottery monies
- ◆ Increase in tobacco tax.
- ◆ LB692 (Legislative Session 2001).
- ◆ Grant funding.

## 9. CREATE MANDATED TREATMENT STANDARDS

The Governor's Working Group recommends that mandated treatment standards be developed and implemented.

**RATIONALE:** In the current system, standards for the provision of sex-offender-specific treatment among all populations are nonexistent. Sex-offender-specific treatment is a critical component of a comprehensive approach to sex offender management. Appropriate treatment can assist sex offenders to learn control over their sexually abusive behavior.

The most effective sex offender treatment programs assist in preventing victimization because they require offenders to acknowledge their crimes and the harm that they have caused their victims and they require offenders to participate actively in the treatment process. Successful participation in and completion of sex-offender-specific treatment is an important condition in probation and parole supervision for many offenders.

Effective sex offender treatment is markedly different from traditional mental health counseling or psychotherapy. Notable differences exist between traditional psychotherapy and sex-offender-specific treatment, as in the latter:

- ◆ The primary focus is the protection of the community.
- ◆ Considerable attention is directed toward understanding the harm the offender has caused the victim.

- ◆ Sex offenders' thinking errors that contribute to their offending patterns are revealed, examined, and challenged.
- ◆ Offenders participate in professionally facilitated group sessions; these sessions provide an opportunity for offenders to challenge one another regarding their denial, distortions, and manipulation.
- ◆ Information discussed in group is shared with supervision agents, polygraph examiners, and other stakeholders as deemed necessary.
- ◆ Critical to successful treatment outcome is learning the offender's long-term patterns that precede actual assaults. This information is shared with the probation or parole officer.
- ◆ Treatment approaches within prison or in the community are based on current research or demonstrated effectiveness in reducing recidivism.
- ◆ The selection of community-based treatment as a condition of probation or parole must be approved by corrections officials. Offenders are not free to select their own treatment program/provider.
- ◆ Treatment programs are offender specific - tailored according to offender needs. "One size fits all" treatment programs are not effective.

Traditional treatment programs which are not designed specifically to meet the needs of the sex offender and, concomitantly, of the public, do not interrupt sexually offensive behaviors and thought patterns. Sex offender treatment programs throughout the states differ greatly in terms of specific treatment modalities employed. It is critical that specific mandated treatment standards be designed and implemented for all sex-offender-specific treatment programs in Nebraska.

#### **IMPLEMENTATION:**

Administrative changes necessary to mandate consistent treatment standards for sex-offender-specific treatment include the following:

- ◆ Delineate and adopt treatment standards for treatment of sex offenders (see ATTACHMENT F for an example of treatment standards utilized in other states).
- ◆ Develop a treatment program approved provider list.
- ◆ Require that an offender participate in a treatment program included on the approved provider list.
- ◆ Make referrals for treatment from the provider list through a multi-disciplinary/multi-agency team of professionals who have access to all available information regarding the offender's offense, history, offense-cycle, motivation for treatment, etc.

Funding required for mandated treatment standards and development of an approved provider list is minimal and would be subsumed under the funding of the Governor's

Council on the Management and Treatment of Sex Offenders. The Council would define, adopt, and implement standards and use of the approved provider list.

Offenders should be expected to pay for community-based treatment. A revolving loan fund should be created for otherwise eligible offenders who are truly indigent. Offenders should also be expected to contribute to a victim-restitution fund.

#### **10. CONDUCT RESEARCH TO ASSESS PROGRAM AND SERVICE EFFICACY AND NEEDS**

The Governor's Working Group recommends that the Governor's Council on the Management and Treatment of Sex Offenders generate process evaluation for the entire system of sex offender services.

**RATIONALE:** Process evaluation is the best vehicle for involved professionals to document success and get the necessary feedback to identify and resolve problems. Such efforts help clarify failure and success and contribute to the knowledge base of an ever-evolving, innovative model for managing and treating sex offenders. In addition, fiscal responsibility dictates that evidence of success is critical in the process of allotting limited resources.

#### **IMPLEMENTATION:**

Administrative changes necessary to delineate and implement process evaluation for all facets of the sex offender response system include the following:

- ◆ Develop a statewide juvenile justice database.
- ◆ Develop extensive empirical research related to prediction of sexual re-offense risk and treatment effectiveness for all sex offenders including juveniles, females and the developmentally disabled.
- ◆ Develop research on the use of polygraph assessment with juveniles.
- ◆ To enhance the ability of the Governor's Council to generate outcome from data collected, all components of the sex offender management and treatment services must be allowed to share information with all other involved agencies/systems.

Changes in funding necessary to design and implement process evaluation include the following:

- ◆ Funding for research for changes in legislation.

- ◆ Funding for personnel costs, i.e. support staff for the Governor's Council on the Management and Treatment of Sex Offenders.

Possible funding sources for research include the following:

- ◆ Grant funding.
- ◆ LB 692 (Legislative Session 2001).

## **11. CREDENTIAL PROFESSIONALS WHO PROVIDE SEX OFFENDER ASSESSMENT AND/OR TREATMENT**

The Governor's Working Group recommends the development and implementation of a process to credential professionals including psychologists, psychiatrists, Licensed Mental Health Professionals, Licensed Clinical Social Workers, and nurses who provide treatment and/or assessment of sex offenders.

**RATIONALE:** As previously noted, sex offenders are different from other criminals and treatment for sex offenders is markedly different from other therapeutic endeavors. Sex-offender-specific treatment assists clients to develop internal controls over deviant thoughts and behaviors. The Colorado Sex Offender Treatment Board (1996) defined sex-offender-specific treatment as "a long term comprehensive set of planned therapeutic experiences and interventions to change sexually abusive thoughts and behaviors." Sex-offender-specific programming focuses on actual sexual behavior, arousal, planning, and rationalizations - not stress, alcohol abuse, or childhood injuries - because these distract from important work pertaining to directly and immediately stopping the abuse. Related issues are addressed in time, and often simultaneously, but first the offender must fully assume responsibility for the damage s/he has caused the current victim(s) and take all measures necessary to prevent future abusive behaviors.

Sex-offender-specific therapy is unlike traditional psychotherapy. Treatment providers care best for the client by *not* first trusting the client's word, but by seeking corroborating information. The therapist immediately targets behavioral and attitudinal changes because a client's current beliefs and actions likely represent a threat to the community. Unlike traditional therapy, counselors will not support the client's lifestyle when it revolves, even remotely, around accessing victims unless a myriad of safety nets is in place. Also, therapists use criminal justice system consequences to motivate non-voluntary clients to engage in treatment, complete homework assignments, and learn and use the tools of internal management.

A provider of treatment who is unaware of these and other dynamics concomitant with sex-offender-specific treatment can impede the process of protecting the public by responding to the information and presentation fostered by the offender to protect his deviant fantasies, planning and behaviors. It is incumbent on the Governor's

Council on the Management and Treatment of Sex Offenders to delineate the requirements and expectations for providers of sex offender treatment. Based on these requirements and expectations, the Governor's Council will develop a list of approved providers. The sex offender will not have the option of choosing a treatment provider who has not met requirements for placement on the approved provider list. This is an important step in developing a consistent, cohesive, effective response to management and treatment of sex offenders in Nebraska.

The establishment of a credentialing system based on adopted training standards would not be without controversy, and would require the building of a consensus among a diverse group of providers. However, the development and use of a list of approved providers, based upon those who voluntarily provide evidence that they have met the training standards, could proceed without legislative action.

### **IMPLEMENTATION:**

Administrative changes necessary to establish the basis for a credentialing system for providers of sex-offender-specific treatment and assessment include the following:

- ◆ Adopt standards of education, training, and experience for psychiatrists, psychologists, licensed mental health professionals, licensed clinical social workers, and nurses who provide assessment and treatment to sex offenders. (See ATTACHMENT G for example of such standards)
- ◆ Based on the delineated standards, develop an approved provider list to include providers who voluntarily provide evidence that they have met the standards.
- ◆ Define requirements for ongoing training to maintain status on the approved provider list.
- ◆ Enforce the approved provider list by blocking offenders from selecting their own treatment provider.

Funding requirements to implement credentialing for providers of assessment and/or treatment of sex offenders include the following:

- ◆ Staff to develop and maintain the approved provider list and a credentialing system.

Funding sources available to implement credentialing for providers of assessment and/or treatment of sex offenders include the following:

- ◆ Offenders should be expected to pay for community-based treatment. A revolving loan fund should be created for otherwise eligible offenders who are truly indigent.



- ◆ If mandatory state credentialing were implemented by statute, providers who sought and were granted credentialing would be expected to pay a fee to cover the costs of issuing and renewing the credential.

## **12. CREATE A MANDATED PROCESS OF CIVIL COMMITMENT**

The Governor's Working Group recommends a mandated process of civil commitment when a sex offender completes a court-imposed sentence and continues to present as a danger to others.

**RATIONALE:** Under the current system, an evaluation of a sex offender prior to his/her release from the Department of Correctional Services is not required by statute. In addition, current legislation on civil commitment is unclear regarding the jurisdiction that is responsible for the offender if s/he is referred to the county attorney for post-incarceration commitment. The Department of Correctional Services has assumed the responsibility of reviewing sex offenders who complete their mandatory sentence and referring those offenders who continue to pose a danger to the community to the county attorney in which s/he is "found". The Department of Correctional Services refers approximately 20% of sex offenders who complete their sentences to county attorneys for post-incarceration commitment. Very few of those offenders referred under current practice are detained and assessed by a Mental Health Board. The result is that dangerous sex offenders who refuse treatment during their incarceration or who have failed treatment during incarceration are released with no mandatory treatment and/or supervision.

It is critical that legislation be adopted to require an assessment of all sex offenders prior to their release from the Department of Correctional Services. Those offenders who meet criteria indicating that they are at high risk to re-offend should be legislatively mandated for referral to a county attorney for post-incarceration commitment for treatment. The current system for civil commitment is not mandated and could, therefore, be terminated at any time. As part of a cohesive, consistent, effective system to contain sex offenders who continue to be at high risk to re-offend, a legislative mandate regarding post-incarceration civil commitment is critical.

### **IMPLEMENTATION:**

Legislation necessary for mandated civil commitment of sex offenders who continue to pose a danger to re-offend post-incarceration includes the following:

- ◆ Enact legislation similar to LB 435 (1999 Legislative Session) to provide a comprehensive statutory mechanism for civil commitment of sex offenders who have completed their criminal sentences, but who still pose a high risk of re-

offending. This legislation would mandate the initiation of proceedings by the county attorney in the county of conviction.

- ◆ If Nebraska's Mental Health Commitment Act is used as the statutory mechanism to effect civil commitments, the definition of a mentally ill person should be changed to include those who suffer from a mental abnormality or personality disorder that makes them likely to engage in acts of sexual violence if not confined in a secure facility.

Administrative changes necessary to support a legislative mandate for civil commitment of sex offenders who continue to pose a danger to re-offend post-incarceration include the following:

- ◆ Adopt a consistent methodology to measure risk to re-offend; e.g., the MnSOST-R, the SRA, or other actuarial measure of risk, to assess risk level when a convicted sex offender completes his/her sentence.
- ◆ Define a procedure delineating what persons are responsible for assessing the inmate prior to completion of his/her sentence.
- ◆ Define a procedure delineating what persons are responsible for referring high-risk offenders to the county attorney.
- ◆ Provide Mental Health Boards with a method to enforce recommendations for increased supervision of perpetrators to provide for victim and community safety.
- ◆ Develop and provide ongoing training for Mental Health Boards on state-of-the-art methodology in assessing and predicting risk.

Funding requirements to implement a mandated civil commitment process include the following:

- ◆ A reallocation of resources may be sufficient to respond to mandated civil commitment since the current system, however haphazardly, is performing this function currently.

### **13. REQUIRE DNA TESTING AND FINGERPRINTING IN ALL FACETS OF SEX OFFENDER INTERVENTION**

The Governor's Working Group recommends the use of DNA testing on conviction and fingerprinting on arrest for all sex offenders. In addition, the Working Group recommends that these data be available in all facets of sex offender intervention including investigation, assessment, sentencing, treating and/or monitoring through probation, post treatment, parole or life-time supervision.

**RATIONALE:** In the current system, a lack of standardized investigative practices may lead to a lack of important information and a concomitant failure to design an appropriate plan for management and treatment of a specific sex offender. Consistent investigative practices that gather DNA and fingerprinting data may result in more charges, identification of additional victims, or may result in more severe and appropriate sanctions. DNA samples can be compared to known samples within the DNA databases, thus enhancing the effectiveness of the investigation process.

**IMPLEMENTATION:**

Legislative changes necessary to allow for gathering of DNA and fingerprinting data include the following:

- ◆ Repeal Section 43-252 and amend Section 43-279 of the Nebraska statutes to authorize the fingerprinting of juvenile sex offenders and the maintenance of such fingerprints and juvenile arrest and adjudication history by the State Patrol in a manner proposed in LB 159 (1999 Legislative Session).
- ◆ Require DNA testing for both juvenile and adult sex offenders upon conviction or adjudication.
- ◆ Nebraska statutes should declare that DNA analysis is a recognized science useful for establishing identity so Nebraska courts may discontinue their practice of requiring expert testimony on the issue of the validity of the science itself.

**14. REQUIRE POLYGRAPH TESTING IN ALL FACETS OF SEX OFFENDER MANAGEMENT AND TREATMENT**

The Governor's Working Group recommends the use of polygraph testing in all facets of sex offender management including probation, parole, treatment, registration, and lifetime supervision.

**RATIONALE:** The post-conviction polygraph examination conducted by an examiner who specializes in sex offender exams is critical to provide optimum supervision to the offender. Data obtained from post-conviction polygraph examinations are used to delineate the treatment plan. Similar to a physician, psychotherapists cannot design a meaningful treatment plan without full knowledge of the offender's problems, current and historical. Furthermore, supervising officers cannot monitor the risk an offender poses to the community without knowing all the types of opportunities and victims that attract the offender. The value of the

polygraph examination is in obtaining additional information that is helpful to case supervision and clinical intervention.

The post-conviction polygraph examination is used to detect previously undisclosed deviant interests, behaviors, types of victims, and pre-assaultive behaviors (e.g. stalking or looking at pornographic material) that indicate a certain offender is approaching a level of imminent danger, either to a specific victim or to the community at large. The risk behaviors vary across offenders - they are as varied as any human's sexual interests and preferences - and the treatment provider, supervising officer, and other team members must work together to develop the most meaningful polygraph questions.

The post-conviction polygraph examination is to sexual offenders as the urinalysis drug test is to drug offenders. It is an independent source of information that is not contingent on the offender's self-reports. Use of the polygraph in the management and treatment of sex offenders requires a highly qualified examiner who is a member of the American Polygraph Association and who has received special training in clinical testing with convicted sex offenders. The polygraph examiner is a critical member of the supervision team. The examiner plays a very distinct role among professionals who manage and treat sex offenders.

The polygraph report is released to both the treatment provider and the supervising officer. The report contains detailed information about disclosures obtained during the examination. The report identifies the questions asked of the offender and, using a computerized scoring system, presents the probability of error for each truthful or deceptive response.

The value of the post-conviction polygraph seems undisputed among those who use it. Findings of researchers studying sex offenders and polygraph data have reported multiple previously undisclosed victims and paraphilias.

The value of the polygraph is reflected in its growing use in the community management of sex offenders. In 1995, the Tennessee legislature passed a law that made polygraph testing mandatory for sex offenders on probation (Tennessee House Bill No. HB 0308, 1995). Since January 1996, Colorado has required the use of the polygraph in the treatment and monitoring of all sex offenders who are serving community sentences. On July 1, 1998, Wisconsin removed statutory barriers to the use of the polygraph with sexual offenders. California, Colorado, Florida, Indiana, and Texas have developed guidelines for polygraph examination with sex offenders, and at least three other States, (Oregon, Washington, and Wisconsin) are seeking to develop guidelines.

The polygraph ideally focuses on the offender's self-reported sexual history as disclosed in therapy and written as an ongoing homework assignment. In addition, the polygraph focuses on the frequency and range of behaviors, numbers and types

of victims, and the ages that paraphilic behaviors commenced. This information is essential for the development of a relevant treatment plan and a safety-oriented surveillance strategy. Finally, a maintenance polygraph examination is conducted periodically to assess the offender's compliance with treatment and supervision requirements. Maintenance polygraphs should be used frequently when the supervision team has reason to believe the offender may be at risk of re-offending.

### **IMPLEMENTATION:**

Legislative changes necessary to implement the on-going use of the post-conviction polygraph for sex offenders include the following:

- ◆ Allow sex offenders to be assessed a civil fee for services received. This fee would provide for a reasonable contribution toward the cost of safety measures needed for management, i.e. sex offender registration, electronic monitoring, Ground Positioning System monitoring, polygraph testing, treatment, and intensive supervision.

Administrative changes necessary to implement the on-going use of the post-conviction polygraph for sex offenders include the following:

- ◆ Delineate a procedure for supervision and treatment that mandates on-going post-conviction polygraph examinations.
- ◆ Determine whether the polygraph administrator will be employed by agencies using the testing (e.g. DCS, HHSS, Probation, Parole, Nebraska State Patrol, lifetime supervision) or whether s/he will function as an independent provider.
- ◆ Design and implement training to supervising officers and treatment providers regarding the use of polygraph results in supervision and treatment.

Funding sources for polygraph testing include the following:

- ◆ If the polygraph examiner were assigned to one or more agencies, the agencies would provide the funds for training and certification.
- ◆ A civil fee should be assessed from the offender for each polygraph administered to him/her.
- ◆ Ongoing use of polygraph testing can provide early detection of an offender's potential to re-offend. This information can be utilized to increase supervision and/or treatment to interrupt the offense cycle. These interventions are less costly than interventions such as incarceration and/or inpatient treatment that would likely be utilized if a re-offense occurred.

## **15. DEVELOP A CONTINUUM OF CARE FOR SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES**

The Governor's Working Group recommends the development and implementation of a continuum of care for sex offenders who are developmentally disabled.

**RATIONALE:** Since 1996, the Beatrice State Developmental Center (BSDC), recognizing a significant need, has repeatedly proposed development of a continuum of care approach for the treatment of sex offenders with developmental disabilities. This proposed continuum of care included a 24-hour residential program to serve up to 24 individuals. The proposal included components related to the Outreach Treatment Services currently provided by BSDC to offer ongoing training and support to community agencies serving those who completed the residential sex offender treatment program. The continuum of care approach was designed to provide outreach and consultation services to support individuals who could be maintained in the community with minimal risk. In addition, the program was to have included aftercare counseling and support to those who completed the inpatient program.

There have been sporadic efforts to provide treatment for criminal offenders with developmental disabilities previously. In the late 1980's, Crime and Community Inc. worked with non-violent offenders, providing counseling and assistance in dealing with the justice system. This program was discontinued after legislative funding was eliminated. The Child Guidance Center in Lincoln has accepted referrals for counseling for sex offenders who have developmental disabilities. Service providers in other areas, including Omaha, report that referrals have been turned away by therapists unaccustomed to working with persons who have developmental disabilities. There are no sex offender programs known to be operating currently for persons with developmental disabilities.

Nationwide, advancement in the treatment of sexual offenders who have developmental disabilities has been hampered by stereotypical, uninformed mindsets that persons with developmental disabilities cannot benefit from treatment or are somehow less accountable for their behavior as a function of their disability. Prosecutors may be less likely to charge this population with their offenses and judges less likely to incarcerate them. When sex offenders have been arrested, there have been no standards for their evaluations, which have all too often been conducted by practitioners lacking experience either with sex offenders or with persons who have developmental disabilities, or both.

Although many states are recognizing the risk this population poses to the community and the obligation to provide treatment to developmentally disabled offenders, just as they do for non-disabled offender, Colorado is the only state to have developed standards for their treatment and evaluation.

Currently, there are no specialized programs in Nebraska for persons with developmental disabilities who exhibit sex-offending behaviors. As a result, these individuals generally are managed in one of the following ways:

1. They can be admitted to a Regional Center; however, the Regional Center programs are not designed to treat persons with developmental disabilities or to meet their ongoing habilitative needs.
2. They can be sent out of state for sex offender treatment which, for adolescents, is estimated to cost Nebraska about \$125,000 per year per person (no estimates are available for out-of-state treatment for adults).
3. They can be admitted to the Beatrice State Developmental Center, which has the capacity to meet their habilitative needs, but does not have the capacity to provide treatment for sex-offending behavior.
4. They can remain in the community, with one-to-one (or more) staffing to ensure their safety and the safety of the community. Often the individual who exhibits sexual offending behaviors requires staff - intensive attention, which results in less attention for non-sex offending clients. This diminishes the quality of care for persons served in the community who do not exhibit sex-offending behavior. One-to-one staffing in the community is a costly alternative (in excess of \$123,000 per person per year) and one that fails to meet the offending individual's treatment needs. *Increased supervision in the absence of treatment is not an acceptable resolution.*
5. They can be sent to a correctional facility; however, this option can be accessed only through the judicial system and is infrequently employed as this population is rarely adjudicated.

The most troubling and most frequent scenarios follow:

6. The individual and the sexual offending behavior go unidentified, or
7. The individual is identified, known to have committed sexually assaultive behaviors though not adjudicated, and is refused treatment/supervision by community providers who view him/her as too dangerous.

Each of these scenarios leads to inadequate supervision, the absence of treatment and maximized risk to the community.

In 1998, based on a survey of Developmental Disabilities Service Coordinators and staff at the Beatrice State Developmental Center, it was estimated that 200 persons receiving services from the developmental disabilities system were identified as "exhibiting sex offense behaviors." This estimate is low as it does not include members of the population who are not served by the developmental disabilities system (a large majority), and those who are incarcerated, or those currently placed in a state psychiatric hospital. Additionally, this estimate included only those

persons over 21 year of age although referral for juveniles with developmental disabilities who exhibit sex-offending behaviors have dramatically increased. In 1999 and 2000, 41% of the individuals served by BSDC's outreach program presented with inappropriate sexual behavior.

At the current time, the State of Nebraska lacks a systemic response to the treatment and evaluation needs of sexual offenders who have developmental disabilities as well as to the public safety needs of the communities in which they reside. There is no entity responsible for the identification, evaluation and treatment of this population. It is critical that a continuum of care for sex offenders with developmental disabilities be planned and implemented.

### **IMPLEMENTATION:**

Administrative changes necessary to establish a continuum of care for sex offenders with developmental disabilities include the following:

- ◆ Reallocate treatment responsibilities at the BSDC.
- ◆ Provide training for treatment providers in the community on assessment and treatment of sex offenders with developmental disabilities.

Funding changes necessary to establish a continuum of care for sex offenders with developmental disabilities include the following:

- ◆ Funding for additional staff.
- ◆ Funding for training BSDC staff and community treatment providers.
- ◆ Funding to attract and retain culturally divergent treatment professionals.
- ◆ Funding for training of investigators, county attorneys, judges, and probation/parole officers in the management of sex offenders with developmental disabilities.
- ◆ Funding to create a secure area at the BSDC for sex offenders, which will protect other vulnerable clients.
- ◆ Funding for treatment expenses not covered by insurance or Medicaid.
- ◆ Funding to support specialized caseloads for parole and probation officers.

Possible funding sources include the following:

- ◆ Percentage of lottery monies
- ◆ Increase in tobacco tax.
- ◆ LB 692 (Legislative Session 2001)

## **16. DEVELOP TREATMENT RESOURCES FOR FEMALE SEX OFFENDERS**



The Governor's Working Group recommends the development and implementation of treatment resources for female sex offenders.

**RATIONALE:** Though the vast majority of sex offenders are male, females also commit sexual crimes. According to the Center for Sex Offender Management, in 1994 less than 1% of all incarcerated rape and sexual assault offenders were female (fewer than 800 women). By 1997, however, 6,292 females had been arrested for forcible rape or other sex offenses, constituting 8% of all rape and sexual assault offenders incarcerated. Additionally, studies indicate that females commit approximately 20% of sex offenses against children. Currently, no inpatient, outpatient or transitional programs for female sex offenders are available in the State of Nebraska. Due both to issues of safety and due to issues concomitant with the dynamics of the sexual offenses, programming for adult females which is separate from programs for adult males is critical.

The Lincoln Regional Center has plans to open five beds for female offenders in August 2001. To provide a continuum of care, however, inpatient sex offender programming for females in the Department of Correctional Services is a critical component. In addition, transitional services including group homes, halfway houses, and outpatient aftercare services are also critical.

**IMPLEMENTATION:**

Administrative changes necessary to implement the Working Group recommendation to design and implement a continuum of care for female sex offenders in Nebraska include the following:

- ◆ Since the female sex offender population is small, some sharing of staff and services between HHSS and DCS may be possible.

Funding necessary to implement the Working Group recommendation to design and implement a continuum of care for female sex offenders in Nebraska includes the following:

- ◆ Allocation of funds in DCS to separate five beds at the Nebraska Correctional Center for Women (NCCW) for sex offender treatment.
- ◆ Funding for one additional staff at NCCW to direct and provide programming to female sex offenders.
- ◆ Funding to develop and implement aftercare services at the LRC to provide services to females who complete inpatient treatment at LRC or at the DCS.
- ◆ Funding to attract and retain culturally divergent treatment professionals.

- ◆ Funding for training of staff who provide sex offender treatment and or management to females, to include investigation, mental health, probation, parole, HHSS, DCS, and the courts.
- ◆ Funding for treatment expenses not covered by insurance or Medicaid.

Possible funding sources include the following:

- ◆ To the extent possible, sex offenders should be responsible for the costs of outpatient treatment.
- ◆ Funding through grants.
- ◆ LB692 (Legislative Session 2001).
- ◆ A percentage of lottery monies.

## **17. DEVELOP AND IMPLEMENT AGE-APPROPRIATE SERVICES FOR JUVENILE SEX OFFENDERS**

The Governor's Working Group recommends the development and implementation of programs to provide age-appropriate assessment, treatment and supervision for juvenile sex offenders.

**RATIONALE:** Sexual assaults committed by youth are a growing concern in this country. Currently, The Center for Sex Offender Management reports that adolescents (ages 13 to 17) account for up to one-fifth of all rapes and one-half of all cases of child molestation committed each year. Research on juvenile sexual offenders emphasizes the importance of early intervention. Adolescent sex offenders who participate in treatment after their first offense are significantly less likely to re-offend than their adult counterparts.

Currently, the State of Nebraska has 38 residential treatment beds for adolescent sex offenders. Residential treatment providers for adolescent sex offenders include the Child Guidance Center/Residential Treatment Program (10 beds) and the Whitehall Adolescent Sex Offender Program (16 beds), both of which are located in Lincoln. Cooper Village (12 beds) in Omaha also provides adolescent perpetrators with residential treatment. Outpatient services for adolescent sex offenders are available through the Child Guidance Center (Lincoln), Mental Health Specialists (North Platte), and the R-Safe Program associated with Lutheran Family Services (Omaha). The primary gaps in a continuum of care for adolescent sex offenders are a lack of transitional facilities, i.e. group homes or halfway houses, and the need for expanded, ongoing training for the providers of adolescent services. Standards of care for both providers of services and for programs providing services to adolescents should be developed and implemented. In addition, empirical research to assess which programs and interventions are most effective with adolescent sex offenders is a critical component, and one that is missing in the current system.

Other concerns with the current system include frequent attempts by decision-makers to overlook offenses by juveniles or to give the adolescent offender a “break” which may preclude the implementation of needed levels of supervision and/or may preclude the offender’s access to treatment at the earliest possible juncture. In addition, virtually no funds are available for early intervention with juvenile sex offenders since managed care will not reimburse for conduct disorders. Issues of confidentiality sometimes preclude the sharing of information among decision-makers regarding a specific sex offender and optimum treatment and management decisions are always based on all available data. In addition, failure to share information may increase the vulnerability of potential victims. Finally, the juvenile offender has been “protected” from resources available to investigators, supervisors and providers of assessment/treatment including fingerprinting on arrest, DNA testing and use of the polygraph. The use of these resources enhances the ability of the decision-makers to delineate optimum plans for the management and treatment of the juvenile offender and they enhance safety of the public.

### **IMPLEMENTATION:**

Legislative changes necessary to increase and enhance services to adolescent sex offenders include the following:

- ◆ Repeal Section 43-252 and amend Section 43-279 of the Nebraska statutes to authorize the fingerprinting of juvenile sex offenders and the maintenance of such fingerprints and juvenile arrest and adjudication history by the State Patrol in a manner proposed in LB 159 (1999 Legislative Session).
- ◆ Enact legislation similar to LB 940 (2000 Legislative Session) to require clerks of the court to notify the superintendent of the public school district or the governing authority of the private, denominational, or parochial school where a student adjudicated delinquent based upon the commission of a sex offense attends school. Information shared would include (1) the identity of the student/sex offender, (2) the court in which the student/sex offender was convicted or adjudicated, (3) the date of the conviction or adjudication, (4) the court docket number, and (5) the sex offense for which the student/sex offender was convicted or adjudicated delinquent.
- ◆ Support the exchange of information between agencies/entities involved in treating and managing sex offenders.
- ◆ Sex offenders, regardless of age, should be subject to supervision as long as they pose a threat to the community. Juvenile sex offenders should not automatically be discharged from supervision upon attaining the age of 19, but should be subject to community supervision as long as they pose a significant danger of re-offending.
- ◆ Require DNA testing for both juvenile and adult sex offenders upon conviction or adjudication.

Administrative changes necessary to increase and enhance services to adolescent sex offenders include the following:

- ◆ Identify and address juvenile and child offenders victimizing peers at the first offense.
- ◆ Develop and implement standards of treatment for adolescent sex offenders for both providers of mental health services and for treatment programs.
- ◆ Establish a statewide juvenile justice database.
- ◆ Develop and implement empirical research related to the prediction of sexual re-offense risk and treatment effectiveness.
- ◆ Develop research on the use of the polygraph with juveniles.
- ◆ Designate and train specialized supervising agents in juvenile probation, Office of Juvenile Services (OJS), and Child Protective Services (CPS).
- ◆ Make available specific information on the sex offense to all decision-makers delineating a plan for treatment and managing a specific sex offender.
- ◆ Adopt standards of education, training, and experience for psychiatrists, psychologists, licensed mental health professionals, licensed clinical social workers, and nurses who provide assessment and treatment to sex offenders.
- ◆ Develop increased use of the polygraph.
- ◆ Create administrative processes to link the juvenile and adult sex offender management systems.
- ◆ Create administrative processes to support an interwoven system linking law enforcement, medical professionals, prosecutors, judicial officials, Health and Human Services, mental health, corrections, probation, parole, and other related disciplines.

Funding necessary to increase and enhance a continuum of care for juvenile sex offenders includes the following:

- ◆ Funding for basic and advanced training of local law enforcement, Health and Human Services, Department of Corrections, physicians, victim advocates, prosecutors, mental health providers, judicial officials, probation and parole officers.
- ◆ Funding for non-covered treatment expenses.
- ◆ Funding to support specialized caseloads.
- ◆ Funding to attract and retain culturally divergent treatment professionals for juveniles.
- ◆ Funding for research of outcomes.
- ◆ Funding for use of the polygraph.

Funding sources include the following:

- ◆ A civil assessment on sex offenders may be possible to defray the costs of extra measures such as polygraph tests used in intensive supervision.
- ◆ Percentage of lottery monies.
- ◆ Increase in tobacco tax.
- ◆ LB 692 funding (Legislative Session 2001).

## **18. ELIMINATE BARRIERS TO SHARING JUVENILE INFORMATION WITH THE ADULT SYSTEM WHEN JUVENILES TRANSITION INTO THE ADULT SYSTEM**

The Governor's Working Group recommends that all juvenile sex offender information be available to the adult sex offender management and treatment system when the offender transitions into adulthood.

**RATIONALE:** As previously noted, the sex offender acts in secrecy. In secrecy, s/he chooses, observes and begins to groom the victim. Specific patterns of behavior will be repeated as the offender secretly positions himself/herself to re-offend. When the treaters and/or supervisors of the sex offender have no information or limited information regarding the pattern of offense behavior(s) of a specific offender, the treatment or supervision plan is designed for the person whom the offender pretends to be. The treatment and/or supervision plan is, therefore, doomed to failure. Information regarding juvenile patterns of offense must be shared with the adult decision-makers or the offender will use the ignorance inherent in that lack of information to plan and complete assaults on additional victim(s).

The Governor's Working Group strongly recommends that information on juvenile offenders be shared with decision-makers in the adult sex offender system when the juvenile offender transitions into the adult venue.

### **IMPLEMENTATION:**

Legislative changes necessary to allow for an exchange of information between decision-makers in the juvenile and adult sex offender treatment and management system include the following:

- ◆ Support the exchange of information between agencies/entities involved in treating and managing sex offenders.

Administrative changes necessary to allow for an exchange of information between decision-makers in the juvenile and adult sex offender treatment and management systems include the following:

- ◆ Make available specific information on the sex offense to all decision-makers delineating a plan for treating and managing a specific sex offender.
- ◆ Create administrative processes to support an interwoven system linking law enforcement, medical professionals, prosecutors, judicial officials, Health and Human Services, mental health, corrections, probation, parole, and other related disciplines.
- ◆ Create administrative processes to link the juvenile and adult sex offender management systems.

## **19. DEVELOP AND IMPLEMENT TRAINING FOR FAMILIES AND FRIENDS OF SEX OFFENDERS**

The Governor's Working Group recommends that training be developed and provided to families and friends of sex offenders, which would allow them to serve as a resource to the offender and the community.

**RATIONALE:** The sex offender's success in the community is directly related to the development of a community support system. That support system, which can include friends, family and employers who are aware of the offender's criminal history, can enhance the supervision and treatment plan delineated for the offender. An example is in Tarrant County, Texas where a "chaperone" program has been initiated in which significant others and family members of sex offenders are taught about the dynamics of sex offending behavior and victimization. In addition, the offender's support system is informed about the offender's sex offenses and is then trained to recognize and identify when that offender is engaging in sexually abusive thoughts and behavior. Equipped with this knowledge, the chaperones – often those most intimately involved in a sex offender's life – are able to intervene if they believe the offender is in danger of committing a new sex offense or has lapsed into sex offending tendencies. This training enhances the effectiveness of the formalized treatment and management plan delineated for an individual offender. It has also been effective in making the sex offending behavior - which was initially covert and unmanageable - overt and potentially manageable.

### **IMPLEMENTATION:**

Administrative changes necessary to train and implement support systems to monitor sex offender's behavior in the community include the following:

- ◆ Train all decision-makers in the sex offender management and treatment system in the use of families, friends, and employers in monitoring individual sex offenders.
- ◆ Train families, etc. through probation, parole, and lifetime supervision to recognize specific offense cycles, note cues that indicate a probable re-offense, and notify the appropriate authority.
- ◆ Provide for the use of training rooms in agencies involved in sex offender treatment and management.

Funding necessary to implement training of support systems of sex offenders include the following:

- ◆ Funding for development of a curriculum and for trainers to implement the curriculum.

Possible funding source:

- ◆ Grant funding.

## **20. DEVELOP TRAINED SEX OFFENDER INVESTIGATION TEAMS FOR ACCESS IN ALL AREAS OF THE STATE**

The Governor's Working Group recommends the specialization of eight to ten highly trained investigators to be assigned to four areas of the state and to be available for sex offense investigations throughout the State at the request of local law enforcement officials.

**RATIONALE:** The investigation of sex offenses is a highly specialized process. In the current system, a lack of standard investigative practices may lead to a failure to access important information. In rural areas where law enforcement officials are responsible for investigating all offenses and the number of sex offenses is small, it is unlikely that the necessary expertise can be gained and maintained.

The Governor's Working Group recommends that two-person sex-offender-specific investigating units be located in the North Platte/Grand Island area and in the Panhandle area, with the remaining four to six investigators located in the Lincoln/Omaha area. The Working Group recommends that these teams work under the direction of the State Patrol in cooperation with the Attorney General's Office. To provide immediate response to violent sex offenses, the available team could use air transportation through the Department of Aeronautics, the State Patrol, or through a commercial carrier. These teams would require initial and ongoing training to maintain optimum proficiency. In addition, they would have the capacity to share their expertise with local law enforcement officials.

## **IMPLEMENTATION:**

Administrative changes necessary to design, train, and implement sex offender investigation teams include the following:

- ◆ Delineate policy and procedures through the Attorney General's office and the State Patrol.
- ◆ Designate location for the teams.
- ◆ Access state-of-the-art training.

Reallocation of responsibilities in agencies involved to implement sex-offender-specific investigative teams include the following:

- ◆ Reallocate some resources within the Investigative Services Division of the State Patrol and the Grand Island Training Center to create sex offender investigation teams.

Changes in funding necessary to implement sex-offender-specific investigative teams include the following:

- ◆ Funds to reimburse local agencies for training officers, wages and travel.
- ◆ Funds to cross-train team members.
- ◆ Funds to implement the sex offender investigative teams
- ◆ Funding for a Police Officer Standards Training Board specific to sex offender issues.

Possible funding sources include the following:

- ◆ Funding may be available from the State Patrol and Grand Island Training Center budgets if a reallocation of responsibilities and personnel were performed.

## **21. DEVELOP INTERAGENCY MANAGEMENT AND TREATMENT TEAMS FOR ALL SEX OFFENDERS**

The Working Group recommends that interagency management and treatment teams be developed and assigned to each individual sex offender. These teams could consist of supervising officers, court officials, county attorneys, polygraphers, victim advocates, mental health professionals, and, potentially, the family and friends who provide support to the offender.

**RATIONALE:** Interagency teams would gather data and delineate a specific plan for the management and treatment of a specific sex offender. Team membership would be determined by decisions involving incarceration, sentencing, probation,



parole, and/or lifetime supervision. At a minimum, each interagency team would have the membership of a criminal justice person, usually a supervising officer, and a mental health person, usually the treatment provider. These teams would make decisions and/or recommendations regarding level of supervision and level and frequency of treatment as an offender moves into or remains in the community.

### **IMPLEMENTATION:**

Legislation necessary to support interagency management and treatment teams for sex offenders include the following:

- ◆ Support the exchange of information between agencies/entities involved in treating and managing sex offenders.
- ◆ Sex offenders, regardless of age, should be subject to supervision as long as they pose a threat to the community.
- ◆ Sex offenders should be assessed a civil fee for services received including fees for intensive supervision.

Administrative changes necessary to support interagency management and treatment teams for sex offenders include the following:

- ◆ Make available specific information on the sex offender to all decision-makers delineating a plan for treating and managing the sex offender.
- ◆ Develop a mechanism to appoint, monitor, and disband interagency teams when appropriate.
- ◆ Create administrative processes to support an interwoven system linking law enforcement, medical professionals, prosecutors, judicial officials, Health and Human Services, mental health, corrections, probation, parole, and other related disciplines.

Funding necessary to support interagency management-treatment teams for sex offenders include the following:

- ◆ Funding for basic and advanced training and cross training of appropriate persons within local law enforcement, HHSS, and DCS, as well as physicians, victim advocates, prosecutors, mental health providers, judicial officials, probation, and parole officers. This includes funding for travel expenses (mileage, meals, and lodging).
- ◆ Funding for instruction expenses such as expert instructors, classrooms, supplies, and related expenses.

Possible funding sources:

- ◆ Grant funding.
- ◆ Percentage of lottery monies.
- ◆ A civil assessment on sex offenders may be possible to defray the costs of extra measures such as intensive supervision.

## **22. INCREASE OPTIONS FOR TREATMENT AND SUPERVISION OF SEX OFFENDERS**

The Governor's Working Group recommends increased options for levels of treatment and supervision of sex offenders in a continuum of care.

**RATIONALE:** In the current system, treatment options are limited. Offenders have the option of residential treatment at LRC and through DCS or they have limited outpatient options. Offenders who have been convicted of sex offenses are rarely granted parole. The result is that offenders who complete their sentences are either civilly committed to treatment or are in the community with no supervision. Offenders who complete treatment through the DCS have no access to aftercare when they complete their incarceration. Offenders who complete treatment at the LRC or through the DCS have no access to transitional group homes or halfway houses in the community. Intensive supervision and treatment in the community are the least expensive modalities of intervention. In Nebraska these critical and least expensive options do not currently exist. The Center for Sex Offender Management reports that one year of intensive supervision and treatment in the community can range in cost between \$5,000 and \$15,000. One year of incarcerating an offender in Nebraska costs approximately \$25,000. The cost of treating an offender at the LRC for one year is \$95,265. Both fiscally and in terms of optimum treatment and management, the State of Nebraska needs to increase options for community management and treatment of sex offenders.

### **IMPLEMENTATION:**

Legislative changes necessary to increase community treatment and management options for sex offenders include the following:

- ◆ Enact legislation similar to LB 435 (1999 Legislative Session) to provide a comprehensive statutory mechanism for civil commitment of sex offenders who have completed their criminal sentences, but who still pose a high risk of re-offending. This legislation would mandate the initiation of proceedings by the county attorney in the county of conviction.
- ◆ If Nebraska's Mental Health Commitment Act is used as the statutory mechanism to effect civil commitments, the definition of a mentally ill person should be changed to include those who suffer from a mental abnormality or personality disorder, which makes them likely to engage in acts of sexual violence if not confined in a secure facility.

- ◆ Enact legislation such as the “Habitual Sex Offender Act” LB 434 (2001 Legislative Session).
- ◆ Amend Nebraska statutes to recognize that prior sex offenses of a defendant charged with a new sex offense may be admissible under Nebraska Rule of Evidence 404, whether or not the prior offenses are of a “signature” nature.
- ◆ Enact legislation such as Section 5 of LB 564 (2001 Legislative Session), as it would amend Section 29-4005 of the Nebraska Statutes and would allow for lifetime sex offender registration as needed for certain sex offenders who pose significant risk of re-offending.
- ◆ Sex offenders regardless of age should be subject to supervision as long as they pose a threat to the community.
- ◆ Permit parole officers and mental health boards to vary supervision needs and conditions as necessary to provide victim and community safety.
- ◆ Revise the sex offender registration law to include registration for sex related crimes, e.g. homicide, false imprisonment.
- ◆ Provide for lifetime supervision of sex offenders who intermittently or continually are at high risk to re-offend.

Funding requirements necessary to increase options for community management and treatment of sex offenders include the following:

- ◆ Funding for group home and halfway house services for adult sex offenders.
- ◆ Funding for aftercare for offenders who complete DCS sex offender treatment.
- ◆ Funding to attract and retain culturally divergent treatment professionals.
- ◆ Funding for specialized supervision officers for sex offenders on probation, parole or lifetime supervision.
- ◆ Funding for training for personnel for group home/halfway house transitional services.
- ◆ Funding for training for specialized supervision officers.

Possible funding source:

- ◆ Offenders should be responsible for outpatient treatment costs and for costs of intensive supervision.

### **23. RECOMMENDATION – HOLD OFFENDERS ACCOUNTABLE BY ASSESSING FEES FOR TREATMENT, SUPERVISION AND VICTIMS’ COSTS**

The Governor’s Working Group recommends that offenders should be held accountable by assessing fees to help offset victims’ costs, costs of outpatient treatment and costs of intensive supervision.

**RATIONALE:** Accountability is a critical component to the treatment and management of sex offenders. It is reasonable and congruent with treatment goals to expect sex offenders to provide reimbursement for victims' costs, costs of outpatient treatment and costs of intensive supervision. A revolving loan fund should be created for otherwise eligible offenders who are truly indigent.

**IMPLEMENTATION:**

Legislative changes necessary to hold offenders fiscally responsible include the following:

- ◆ Sex offenders should be assessed a civil fee for services received. This fee includes a reasonable contribution toward the cost of safety measures needed for management, i.e. sex offender registration, electronic monitoring, Ground Positioning System monitoring, polygraphs, treatment and intensive supervision. Offenders should also be mandated to contribute to a victim's compensation fund.

Administrative changes necessary to hold offenders fiscally responsible include the following:

- ◆ Develop a revolving loan fund for otherwise eligible offenders who are indigent.

**Results of Sex Offender Survey**  
**Mario J. Scalora, Ph.D.**  
**University of Nebraska-Lincoln**

The Governor's Work Group on the Management of Sexual Offenders believed it was important to obtain feedback from one group directly impacted by its recommendations - namely sex offenders. Since sex offenders have no organized interest group, it was decided to obtain feedback from anonymous surveys as opposed to the traditional method public hearings. Sex offenders from facilities run by the Nebraska Department of Correctional Services and the Lincoln Regional Center were surveyed for their opinions related to relevant legislation, public safety measures as well as offense-specific treatment. Participation with the survey was voluntary. Less than 5 percent of the offenders approached refused to participate. The following survey results reflect the opinions of 114 convicted sex offenders.

**Offender familiarity with various laws related to sex offenders**

- Offenders generally reported believing they were most familiar with sex offender registration and community notification statutes (48.3% and 34.2% respectively reported better than average familiarity).
- Substantial numbers of offenders reported little or no familiarity with proposed sexual predator law as well as the mental health commitment law allowing for post release civil commitment (49.1% and 38.6% respectively reported limited familiarity). Overall, however, these findings indicate limited awareness of the relevant laws by sex offenders.

**Impact of laws on sex offender behavior**

- While the inmates surveyed indicate limited knowledge of the law impacting sex offenders, they do report that the perceived legal pressure has had positive impact on their motivation for treatment (57%), desire not to re-offend (77.2%), as well as increased family interest in their treatment (50%).

**Offender attitudes regarding the offenders in general**

To assist with interpreting the findings, the offenders were surveyed concerning their beliefs relating to offender issues in general:

- Many of the offenders described some degree of perceived unfairness concerning how sex offenders were treated by agreeing (47%) that recent public attention to sex crimes and sexual offenders has been sensationalized. Further, nearly half of the offenders disagreeing with the statement that sex

crimes are fairly prosecuted. While recent legal and legislative attention has been paid to sex offenders, only 25 percent of the offenders surveyed strongly agreed that sex offenders should be treated differently from other offenders due to the risk they pose to society.

- Not surprising, given the fact that all of the offenders surveyed were engaged in treatment, almost two-thirds of the offenders (62%) strongly believed that sex offenders could be successfully treated. Also, nearly half (47%) strongly believed that treated sex offenders were at significantly less risk to re-offend.
- Nearly half (47%) of the offenders surveyed strongly agreed that victims' accounts of the offenses are generally truthful.

### **Perceived barriers to re-integration into society:**

When questioned regarding perceived barriers to re-integration into society upon release, offenders expressed concern over a range of factors. Generally, the highest concerns were raised concerning the potential interference that may be posed by public awareness of the sex crime through a felony history, publicity relevant to the offense, or community notification. Significant concerns were also more likely to be raised related to job skill deficits rather than limited treatment or legal supervision resources. A summary of these results follow:

Barrier	% Strongly Agree
Difficulty finding work due to being a known sex offender	67.6
Difficulty finding work because of felony history	57.7
Personal information being disclosed to public when released	50.0
Feeling isolated within the community	49.2
Limited job skills	46.5
Limited family support	36.8
Limited education	30.7
Limited legal supervision (e.g., parole, probation)	27.2
Limited treatment resources	28.6

### **Suggestions to improve public safety:**

Interestingly, offenders endorsed a range of treatment, job skill, and prevention resources as useful to improving public safety. Not surprising was that offenders perceived increased criminal sanctions or legal supervision as useful to public safety. The ratings made by the offenders include:

Recommendation	% Strongly Agree
More treatment resources	79.8
Prevention programs aimed at young people	72.8
Better trained treatment providers	71.9
More job training for offenders	71.1
More educational training (for offenders)	67.5
More victim advocacy services	59.7
Better trained investigators	49.1
Longer probation/parole terms	35.9
More civil commitments of released offenders	23.7
Longer criminal sentences	11.4

### **Offender Comments:**

In addition to the ratings received in the areas described above, the inmates were given the opportunity to provide recommendations and constructive feedback concerning a range of issues. Many insightful and constructive comments were received.

Several noteworthy comments were received concerning the improvement of the investigation of sex crimes. For example, multiple offenders suggested the need for “More cooperation between investigative agencies”. Several offenders also endorsed the need to for improved training of investigators through comments such as “Better trained police officers and medical personnel”, “Be more sensitive to the victim’s feelings during investigation” and “All questions have to be explained in detail. Don’t take for granted that the victim has knowledge in a given subject”. Many offenders also raised concern regarding the use of the Internet to perpetrate sex crimes. As one offender stated, “The internet needs to be watched very carefully. Lots of sexually deviant and inappropriate activity occurs there”.

Regarding the improvement of treatment, the offenders generally suggested the need for more access to treatment as well as a broader array of services. Most statements supported the need for “more transition programs” after offenders leave institutions. As another offender put it, “We need more treatment facilities and more transitional centers for reintegration into the community after treatment”.

Perhaps some of the more interesting comments related to offenders’ views enhance public safety in general. Numerous suggestions were provided concerning the value of prevention and public education programs. A reasonable sample of these suggestions include:

“Encourage children to tell no matter what lies the perpetrator tells them.  
Increase public ads about telling – it’s the right thing to do.”

“Public education of current reporting laws & procedures should be increased.”

“Better safety education in schools and households.”

“Kids should be made more aware of what effects sexual assault can do to them. They also need to realize it’s not their fault, it’s the predators fault.”

“I strongly agree that the public should know when a sex offender is released.”

“Provide for public programs (TV, radio, etc.) to educate the public as to sex offending, a need to educate the public.”

### **Conclusion:**

In general, while the survey results reflect a diversity of opinions related to the management of sexual offenders, the offenders provided feedback that often indirectly supported many of the recommendations made by the Work Group. For example, many offenders do perceive sex offenders as posing a risk without proper intervention and supervision. The offenders surveyed also supported improvements in available treatment resources. Strong endorsement of prevention programming aimed at potential victims and offenders was noteworthy. However, while they often agreed that relevant laws do provide incentive to engage in treatment and consider the cost of re-offending, many offenders also expressed concerns regarding the impact of recent legal activity regarding sexual offenses upon their personal freedom and ability to reintegrate into society. This finding highlights the balancing of considerations between constitutional and public safety issues that take place when contemplating policy in this area.

The Working Group is grateful to Mario Scolara, Ph.D. who generated this research.



## **RECOMMENDATIONS PRIORITIZED**

The Governor's Working Group strongly supports the endorsement and implementation of all recommendations included in this document. The first priority and most critical component of an integrated, consistent, and effective system for the treatment and management of sex offenders is, however, the development of the Governor's Council on the Management and Treatment of Sex Offenders. The following graphics are generated to assist in the visualization of the current system and a visualization of a system utilizing a central body that fosters shared information, integrated planning, increased treatment and supervision services, increased victim/prevention services, and increased use of technology to optimize and measure outcomes. The current system, graphically illustrated on the next four pages, demonstrates the ambiguity, multiple independent decision-makers, and the resultant disjointed responses that are concomitant with the current system. The fifth graphic illustration demonstrates the critical addition of a centralized Council through which information and expertise are shared resulting in integrated, efficacious assessment, treatment and management of each individual sex offender.

**CHART: Typical Model of Processing of Sex offenders in Nebraska (Part 1)**

**CHART: Typical Model of Processing of Sex Offenders in Nebraska (Part 2)**

**CHART: Typical Model of Criminal Case Processing of Sex Offenders in Nebraska (Part 3)**

## **CHART: Summary of Current Model**

## **CHART: Summary of Proposed Model**

The Governor's Working Group is grateful to Mary Maahs-Becker for her expertise in the development of the graphics included on the previous pages.





## **CONCLUDING REMARKS**

The Governor's Working Group is enormously grateful for the opportunity to meet the challenge of the Governor's charge to generate recommendations for a cohesive, integrated, consistent and state-of-the-art plan to provide management and treatment to sex offenders in the State of Nebraska. The citizens of Nebraska have the right as well as the responsibility to participate in the planning and implementation of this plan to act on a threat that has, for many years, been feared and often ignored. To treat and manage sex offenders, all citizens must participate in the process of learning how to protect themselves and their children who are most often the victims of sex offenses. We have learned that the expertise exists in this State to provide information, assessment, treatment and management; however, that expertise has not been optimized through collaboration among professionals and with the public. The public has often failed to act to prevent sexual offenses due to ignorance, which increases fear. Sexual offenses in families have been ignored or denied due to lack of public information regarding intervention, which can interrupt those offenses. When perpetrators can no longer be ignored, well-meaning persons have admonished the offender and, to prevent labeling, have allowed the offender to continue to offend without the intervention of treatment and/or management through probation/parole or incarceration. When an offender has finally been recognized, well-meaning persons have allowed the offender to plea-bargain, resulting in incarceration or parole/probation, but resulting in no treatment. Offenders have moved from one area of the State to another and information regarding their offense history has not been available to the most current decision-makers. Offenders have participated in treatment that they have chosen. Often that treatment is provided by professionals who have little or no training or expertise in sex-offender-specific treatment. The same compartmentalization and secrecy that are characteristics of sexual offending have been the characteristics of the system that has attempted to respond to those offenders.

The Nebraska system for the management and treatment of sex offenders can be the system to which other states refer for the expertise necessary to provide safety to their citizens. The Governor's Working Group strongly recommends that the State of Nebraska access the professional expertise available by the development of a Governor's Council on the Management and Treatment of Sex Offenders. In addition, it is critical that those less fiscally demanding, but equally critical components of treatment and management be added to the current inpatient programming and incarceration, which are the most costly containment and treatment modalities. It is critical that professionals who make treatment and management decisions have all information regarding the offender's history. It is critical that offenders be held accountable and that they exhibit financial responsibility through payment for treatment and supervision and in reparation for victims. In addition, it is critical that professionals who are decision-makers in the

management and treatment of sex offenders join with the public in a concerted effort to stop sex offenses through prevention services. Intervention and ongoing support and treatment for victims of sexual offenses are not only appropriate for the victims themselves, but also are ultimately generative in terms of societal human resources. Accessing offenders' families and other members of their support system to assist offenders in noting cues and behaviors synonymous with offense cycles is a generative, low cost intervention. As previously stated, all citizens of Nebraska must be involved in the system delineated and recommended by this Working Group.

The members of the Governor's Working Group on the Management of Sex Offenders recommend the creation of both the Council and of those elements in the continuum of treatment and management that are currently unavailable. We appreciate the Governor's time and consideration of these recommendations. We are hopeful that we can continue to participate in the process of developing a system for treating and managing sex offenders in Nebraska that will protect Nebraska citizens and that will serve as a benchmark for other states.

## **ATTACHMENTS**

## **ATTACHMENT A**

### **CHARGE to the GOVERNOR'S WORKING GROUP on the MANAGEMENT OF SEX OFFENDERS IN NEBRASKA**

#### **Mission**

The Working Group will provide to the Governor a comprehensive policy for the management of sex offenders in the State of Nebraska and recommendations for implementation of the policy.

#### **Problem Statement**

The State of Nebraska lacks a systematic, comprehensive policy and plan for the management of sex offenders. There appears to be little consistency in the arrest, conviction, sentencing, incarceration, recommendations for treatment, treatment services, post-incarceration commitment, or after care of sex offenders throughout the State. During the past year, there has been a dramatic increase/impact of sex offenders on the Department of Health and Human Services System (HHSS), Department of Correctional Services (DCS), and the criminal and civil court systems in Nebraska.

Post-incarceration commitment rates rose as a result of a 1997 U.S. Supreme Court decision (*Hendricks v. Kansas*), which upheld a Kansas law permitting civil commitment of adjudicated sex offenders to psychiatric facilities following completion of their criminal sentences.

With the increase in incarceration and commitment rates of sex offenders, the development of alternative methods to treat, manage, or contain offenders has not occurred. Many of the nearly 600 sex offenders incarcerated at DCS or as patients within HHSS, particularly the very dangerous sex offenders, refuse both HHSS and DCS treatment programs. Because of their dangerousness and refusal to participate in treatment, however, these are the very individuals most likely to be civilly committed at the completion of their sentences. Again, these commitments are stressing the Regional Centers because of their increasing numbers and decreasing treatability. Although the number of female sex offenders is small, there is no intensive, female sex offender-specific treatment program either at HHSS or DCS.

Because the overall growing numbers of sex offenders in need of treatment and and/or management in Nebraska have escalated, it is imperative for the State to

develop a comprehensive plan to address this situation. We recommend the Working Group evaluate all factors related to this issue and develop a comprehensive, long-range, integrated response plan.

### **Composition**

The Working Group will consist of the following members:

DCS	Suzanne E. Bohn, Ph.D., Co-Chair
HHSS	Barbara A. Ramsey, Ph.D., Co-Chair
State Probation System	Edward C. Birkel (with approval from the State Supreme Court)
Treatment Provider	Steven B. Blum, Ph.D.
Attorney General's Office	Laurie Smith Camp
State Patrol	Gary Plank
University of Nebraska	Mario Scalora, Ph.D.

### **Products**

The Working Group will provide to the Governor a report that summarizes its work, provides a detailed policy for the management of sex offenders, and proposes a strategy for implementation of the policy. A final report will be presented to the Governor on or before June 15, 2001.

### **Issues to Be Addressed**

The Working Group will investigate all aspects of the current practices regarding management of sex offenders in Nebraska and will identify ways in which these practices can be improved. Based upon this investigation, the Working Group will propose a comprehensive and collaborative system for sex offender management. In particular, the Working Group will address each of the following issues:

1. The manner in which sex offenders are identified and charged.
2. Decision-making processes regarding disposition.
3. Court disposition, criminal code, and sentencing issues.
4. Degrees of confinement and levels of supervision.
5. Evaluation and treatment options.
6. Standards of care and provider competency.
7. Post-probation/post-incarceration issues.
8. Barriers to accessing various levels of care.
9. Other areas determined by the Working Group to be relevant to accomplishing its mission.

## **Resources**

The Health and Human Services System (HHSS) and the Department of Correctional Services (DCS) will provide resources in support of the Working Group, including but not limited to:

1. Professional and support staff.
2. Facilitation of meetings.
3. Reimbursement of travel expenses for Working Group and Work Team members (according to general State guidelines)
4. Meeting expenses.
5. Preparation of a report to the Governor.

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**ATTACHMENT B (1)**

**CHARGE from the GOVERNOR'S WORKING GROUP  
on the MANAGEMENT OF SEX OFFENDERS IN NEBRASKA  
to  
WORK TEAM #1**

**Mission**

The Work Team will provide to the Governor's Working Group requested data, analysis of information, recommendations, options and findings to assist the Working Group in fulfilling its mission. The mission of the Governor's Working Group is to provide to the Governor a comprehensive policy for the management of sex offenders in the State of Nebraska and recommendations for implementation of the policy.

**Problem Statement**

The State of Nebraska lacks a systematic, comprehensive policy and plan for the management of sex offenders. There appears to be little consistency in the arrest, conviction, sentencing, post-incarceration/post-treatment commitment, and post-probation/parole/post-incarceration/post-treatment management of sex offenders in the State of Nebraska.

**Composition**

The Work Team will consist of the following members:

Laurie Smith Camp, Chair  
Edward C. Birkel  
Matt Acton  
Tanya Randolph-Elgin, Psy.D.  
Nancy G. Mize, Ph.D.  
Suzanne E. Bohn, Ph.D.  
Y. Scott Moore, M.D.  
Gary Plank  
George Green



Vicky Moreno  
(Retired) Judge Sam Van Pelt  
Sarah O'Shea  
Leigh Ann Reteldsdorf

### **Products**

The Work Team will provide to the Governor's Working Group a report that summarizes information collected at the direction of the Governor's Working Group. The Work Team will provide to the Governor's Working Group recommendations for increased efficacy in the areas of focus as those areas impact on the management of sex offenders in the State of Nebraska. These recommendations will include legislative and administrative changes as well as potential re-allocation of responsibilities among agencies. In addition, funding recommendations and a comprehensive policy for implementation of recommendations will be included in a final report to be presented to the Governor's Working Group on or before April 15, 2001.

### **Definition:**

For purposes of this endeavor, a sex offender will be defined as a person who has engaged in behavior defined in statute as a sexual offense, whether or not convicted of a sexual offense.

### **Issues to be Addressed**

The Work Team will collect information, analyze information, and make recommendations in the following areas:

1. What are the current and historical method(s) by which sex offenders are identified and charged in the Nebraska Criminal Justice System?
2. What are the State of Nebraska's current and historical decision making processes in regard to disposition of sex offenses?
3. What are the current and historical criminal codes regarding sex offenses in the State of Nebraska?
4. What are the current and historical sentencing structures and sentencing structure processes in the State of Nebraska?
5. What are the historical and current processes of civil commitment regarding sex offenders and definition of mental illness in the State of Nebraska?

6. What post-probation/parole and post-incarceration/post-treatment options are historically and currently available and what recommendations would the Work Team make regarding these issues?
7. How is information on sex offenders shared by various government agencies and treatment agencies in the State of Nebraska? What methods of sharing information have existed historically?
8. What is working well in the above areas of sex offender management?
9. What barriers exist in the above areas which may negatively impact on the management of sex offenders in the State of Nebraska?
10. How effectively are the various agencies and processes which you have examined working together?
11. What barriers exist to a cohesive interfacing of these areas and processes?
12. What information from other States might provide options for improvement?
13. What are the Work Team's recommendations for improvement in the areas assessed?
14. What statutory and/or administrative changes would be necessary to implement the Work Team's recommendations?
15. Would a re-allocation of responsibilities in agencies involved be necessary to implement the Work Team's recommendations? If so, what re-allocations are recommended?
16. What changes in funding and policy would be necessary to implement the Work Team's recommendations?

### **Resources**

The Health and Human Services System (HHSS) and The Department of Correctional Services (DCS) will provide resources in support of the Work Team, including but not limited to:

1. Professional and support staff
2. Facilitation of meetings
3. Reimbursement of travel expenses for Work Team members (according to general State guidelines)
4. Meeting expenses
5. Preparation of a report to the Working Group

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**ATTACHMENT B (2)**

**CHARGE from the  
GOVERNOR'S WORKING GROUP on the  
MANAGEMENT OF SEX OFFENDERS IN NEBRASKA  
to  
WORK TEAM #2**

**Mission**

The Work Team will provide to the Governor's Working Group requested data, analysis of information, recommendations, options and findings to assist the Working Group in fulfilling its mission. The mission of the Governor's Working Group is to provide to the Governor a comprehensive policy for the management of sex offenders in the State of Nebraska and recommendations for implementation of the policy.

**Problem Statement**

The State of Nebraska lacks a systematic, comprehensive policy and plan for the management of sex offenders. There appears to be little consistency in standards of care, provider competency, incarceration commitment, and post-probation/post-incarceration management of sex offenders in the State of Nebraska.

**Composition**

The Work Team will consist of the following members:

Steven B. Blum, Ph.D., Chair  
Shannon Black, Ph.D.  
Rhonda Turner, LMHP

Georgie Scurfield  
RoxAnne Koenig  
Mark Weilage, Ph.D.  
Jack Carlson, LMHP  
Suzanne E. Bohn, Ph.D.  
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James Mays  
Laurie Reinsch, LMHP  
Charles Wooldridge  
Lynda Perry  
Kris Chiles  
Y. Scott Moore, M.D.  
John Worley, Ph.D.  
Melissa Buhrow, Ph.D.  
Rose Ragole, RN, CS, LPC  
Kim Etherton, LMHP  
Kathy McGuire  
Mary O'Hare  
Roger Stortenbecker  
Carla Sorenson

### **Products**

The Work Team will provide to the Governor's Working Group a report that summarizes information collected at the direction of the Governor's Working Group. The Work Team will provide to the Governor's Working Group recommendations for increased efficacy in the areas of focus as those areas impact on the management of sex offenders in the State of Nebraska. These recommendations will include legislative and administrative changes as well as potential re-allocation of responsibilities among agencies. In addition, funding recommendations and a comprehensive policy for implementation of recommendations will be included in a final report to be presented to the Governor's Working Group on or before April 15, 2001.

### **Definition:**

For purposes of this endeavor, a sex offender will be defined as a person who has engaged in behavior defined in statute as a sexual offense, whether or not convicted of a sexual offense.

### **Issues to be Addressed**

The Work Team will collect information, analyze information, and make recommendations in the following areas:

1. What standards exist both clinically and statutorily in the State of Nebraska to provide consistency and quality in provider competency and how has this historically been done?
2. What current options for evaluation and treatment of sex offenders are available in the State of Nebraska and how has this historically been done?
3. What standards exist in the State of Nebraska for treatment assessment and risk assessment of male, female, adult, juvenile and developmentally disabled sex offenders in the State of Nebraska and how has this historically been done?
4. What barriers (including access to care, legal barriers, funding barriers, and community attitudes) to accessing assessment and treatment of sex offenders exist or have existed in the State of Nebraska?
5. How effectively are the areas and processes working together?
6. What information or processes from other States might be helpful in making recommendations in the areas assessed?
7. What barriers exist to cohesive interfacing of these areas and processes?
8. What are the Work Team's recommendations for improvement in the areas and processes assessed?
9. Identify statutory and/or administrative changes and make recommendations to Work Team #1 as appropriate.
10. Would a re-allocation of responsibilities in agencies involved be necessary to implement the Work Team's recommendations? If so, what re-allocations are recommended?
11. What changes in funding would be necessary to implement the Work Team's recommendations?
12. What policy changes would be necessary to implement the Work Team's recommendations?

### **Resources**

The Health and Human Services System (HHSS) and The Department of Correctional Services (DCS) will provide resources in support of the Work Team, including but not limited to:

1. Professional and support staff
2. Facilitation of meetings
3. Reimbursement of travel expenses for Work Team members (according to general State guidelines)
4. Meeting expenses
5. Preparation of a report to the Working Group

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### **ATTACHMENT B (3)**

## **CHARGE from the GOVERNOR'S WORKING GROUP on the MANAGEMENT OF SEX OFFENDERS IN NEBRASKA to WORK TEAM #3**

### **Mission**

The Work Team will provide to the Governor's Working Group requested data, analysis of information, recommendations, options and findings to assist the Working Group in fulfilling its mission. The mission of the Governor's Working Group is to provide to the Governor a comprehensive policy for the management of sex offenders in the State of Nebraska and recommendations for implementation of the policy.

### **Problem Statement**

The State of Nebraska lacks a systematic, comprehensive policy and plan for the management of sex offenders. There appears to be little consistency in the manner in which sex offenders are identified and charged. In addition, involvement of victim advocates, methods of investigation, and long-term management are not consistent as applied to sex offenders.

### **Composition**

The Work Team will consist of the following members:

Gary Plank, Chair  
Kathy Ogle, LMHP  
Shannon Black, Ph.D.  
Kathy Blum  
Kristen Houser  
Edward C. Birkel  
Mario Scalora, Ph.D.  
Terri Nutzman-Buller  
Cameron White, Ph.D.  
Cathy Gibson-Beltz  
Lt. Mike Butera  
Don Belau, Ph.D.  
Karen Heng  
Jodi Nelson  
Chief William Gumm  
Dale Radcliff

### **Products**

The Work Team will provide to the Governor's Working Group a report that summarizes information collected at the direction of the Governor's Working Group. The Work Team will provide to the Governor's Working Group recommendations for increased efficacy in the areas of focus as those areas impact on the management of sex offenders in the State of Nebraska. These recommendations will include legislative and administrative changes as well as potential re-allocation of responsibilities among agencies. In addition, funding recommendations and a comprehensive policy for implementation of recommendations will be included in a final report to be presented to the Governor's Working Group on or before April 15, 2001.

### **Definition**

For purposes of this endeavor, a sex offender will be defined as a person who has engaged in behavior defined in statute as a sexual offense, whether or not convicted of a sexual offense.

### **Issues to be Addressed**

The Work Team will collect information, analyze information, and make recommendations in the following areas:

1. How are sex offenders currently identified and charged in the Nebraska Juvenile, Child Protective and Criminal Justice Systems and how has this historically been done?
2. How have victim advocates been involved both currently and historically in the process of managing sex offenders in the State of Nebraska?
3. How are investigations of sex offenses conducted currently in the State of Nebraska and how has this historically been done?
4. What standardized investigative databases and other resources are available to the investigation process in the State of Nebraska?
5. What methods of long term management of sex offenders are currently available in the State of Nebraska and how has this historically been done?
6. How does the sex offender registration process operate and interface with law enforcement management?
7. What is working well in the processes and systems assessed and how do they interface?
8. What barriers exist in these processes and systems to optimum management of sex offenders?
9. What information from other States might assist in making recommendations for improvement in the areas and processes assessed?
10. What are the Work Team's recommendations for improvement in the areas and processes assessed?
11. What statutory and/or administrative changes (including civil commitment) would be necessary to implement the Work Team's recommendations?
12. Would a re-allocation of responsibilities in agencies involved be necessary to implement the Work Team's recommendations? If so, what re-allocations are recommended?
13. What changes in funding would be necessary to implement the Work Team's recommendations?
14. What policy changes would be necessary to implement the Work Team's recommendations?

## **Resources**

The Health and Human Services System (HHSS) and The Department of Correctional Services (DCS) will provide resources in support of the Work Team, including but not limited to:

1. Professional and support staff
2. Facilitation of meetings
3. Reimbursement of travel expenses for Work Team members (according to general State guidelines)
4. Meeting expenses
5. Preparation of a report to the Working Group

### **WORK TEAM #3 MEMBERS**

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## **ATTACHMENT C**

### **Sex Offender Conditions of Parole/Probation**

The following conditions of Probation or Parole are specific to individuals who have either been convicted of a sex offense, or whose community supervision officer determines the conditions would be appropriate based upon the facts of the offense for which they are convicted. These conditions are in addition to the standard conditions of Parole/Probation as outlined by the Board of Parole or the Sentencing Court.

1. Sex offenders shall have no contact with their victim(s) including correspondence, telephone contact, or communication through a third party unless approved in advance by the supervising officer. Parolees/Probationers shall not enter onto the premises, or travel past the victim's residence, place of employment or other places frequented by the victim.
2. Sex offenders shall have no contact, nor reside with children under the age of 18, including their own children, unless approved in advance by the supervising officer. All incidental contact with children must be reported to the supervising officer and the treatment provider, if applicable.
3. Sex offenders shall notify the supervising officer and the treatment provider of any involvement in an intimate relationship at its beginning, and shall introduce the person to the supervising agent to disclose the offender's history of offending. Sex offenders who have perpetrated against children shall not date anyone who has children under the age of 18 unless approved by the supervising agent.
4. Sex offenders shall not loiter or have residences adjacent to any school, daycare, park, arcade, amusement park, playground or other places used primarily by children unless approved in advance by the supervising officer.
5. Sex offenders shall not be employed or participate in any volunteer work that involves contact with children unless approved in advanced by the supervising officer.
6. Sex offenders shall not have access to computers or the Internet either at home or at their place of employment unless approved in advanced by the supervising officer.
7. Sex offenders shall not possess any pornographic, sexually oriented, or sexually stimulating material, including visual, auditory, telephonic, or electronic media, computer programs or services. Sex offenders shall not patronize any places



where such material or entertainment is available. Sex offenders shall not utilize any sex-related telephone numbers. Such use of sexual oriented material may only be used with the permission of the supervising officer and treatment provider for treatment purposes.

8. Sex offenders shall not utilize computers at home or at work without prior approval from the supervising officer. This will include Internet sites, chats rooms or other computer accessible information.
9. Sex offenders will be required to undergo DNA testing if required by State statute.
10. Sex offenders will be required to register in accordance with State statute.
11. Sex offenders shall sign information releases to allow all professionals involved in assessment, treatment and behavioral monitoring of the sex offender to communicate and share documentation with each other.
12. Sex offenders shall attend, actively participate in and be financially responsible for evaluation and treatment approved by the supervising officer and shall not change treatment providers without prior approval of the supervising officer.
13. Sex offenders shall participate in an electronic monitoring program or satellite tracking program, as appropriate, and pay for all such services unless waived by the Board of Parole or Sentencing Court.
14. The Sentencing Court or Board of Parole may impose other special conditions as recommended by the supervising officer, which restrict sex offenders from high-risk situations and limit access to potential victims.

## **ADDITIONAL CONDITIONS OF SEX OFFENDER SUPERVISION**

The following conditions of supervision may or may not be appropriate for some sex offenders under community supervision. The menu below is to be used as a guide by supervising officers, the Board of Parole and/or sentencing courts. There are some cases that have special supervision needs based upon the facts of the crime(s) committed. The conditions listed below may address some of those special needs.

You shall not date or marry anyone who has children under the age of eighteen, unless approved in advance and in writing by the supervising officer.

You shall notify your supervising officer of any involvement in an intimate relationship at its beginning and you shall introduce the person to your supervising officer to disclose your past sexual offenses prior to engaging in any type of sexual activity with that person.

You shall fully cooperate with all procedures required to undergo polygraph examinations.

You shall not reside or stay overnight in any residence other than your designated and approved residence without prior supervising officer's approval. "Overnight" is defined as the daily period of time between 11:00 p.m. and 6:00 a.m. unless redefined by your supervising officer, in advance, to account for 2<sup>nd</sup> and 3<sup>rd</sup> shift schedules.

You shall permit no person, whether juvenile or adult, to reside or stay overnight in your designated residence without prior approval from your supervising officer.

You shall not possess any instrument which can be used to subdue or restrain another person including but not limited to handcuffs, chains, belts, clothesline, or duct tape without prior approval from your supervising officer.

You shall not alter your identity in any manner whatsoever, including but not limited to changing your name, wearing a law enforcement officer's badge, wearing a disguise or changing your physical appearance without prior supervising officer approval.

You shall maintain a written log on a daily basis accounting for your whereabouts and activities for each day according to the plan provided by your supervising officer.

You shall not enter into any area frequented by persons under age 18 years including but not limited to schools, day care centers, playgrounds, parks, beaches, pools,

shopping malls, theaters, arcades or festivals without prior supervising officer approval.

You shall not enter into a public restroom labeled for the use of the other anatomical gender without prior approval from your supervising officer.

You shall abide by a curfew from \_\_\_\_\_ to \_\_\_\_\_ unless you obtain an exception in advance from your supervising officer. Curfew is defined as that period of time during which you must be inside your designated residence.

You shall provide to your supervising officer a travel route, mileage, and passenger information for travel to and from work and any other destinations as directed by your supervising officer.

You shall not enter the premises (buildings or land) of any private person without the approval of the owner/occupant.

You shall not communicate on a telephone to convey or receive any sexually explicit messages.

You shall not purchase, possess, or use any type of telephone without the prior approval of your supervising officer.

You shall not hold or exercise any position of authority with the following categories of people: children, elderly, families, the mentally, emotionally, or physically disabled; or the culturally different/disadvantaged, without prior approval of your supervising officer.

Your genitals shall remain covered by clothing at all times when you are in view of another person other than a consenting adult.

You shall not purchase, possess, or use any still or video photography equipment without prior approval of the supervising officer.

You shall not order any item or service by mail without prior approval of your supervising officer.

You shall not purchase or possess any photographs of persons under the age of 18 years without prior approval of your supervising officer.

## **ATTACHMENT D**

### **LIFETIME SUPERVISION OF SEX OFFENDERS**

#### **COLORADO**

##### **Indeterminate Sentence**

1. The court shall sentence a sex offender to the custody of the Department of Correctional Services for a minimum term prescribed by statute for the level of offense and a maximum of the sex offender's natural life

(a) the minimum term for a crime of violence is at least the mid-point in the presumptive range

(b) a "habitual sex offender" is sentenced to a term of at least three times the upper limit of the presumptive range for the level of offense committed.

© if the sex offender committed a particular sex offense defined in statute and had notice that he/she was HIV positive, the offender is sentenced to a term of at least three times the upper limit of the presumptive range for the level of offense committed.

2. Based on a sex offender evaluation, the court may sentence a sex offender to probation for a statutorily prescribed minimum term and a maximum of the sex offender's natural life

(a) As a condition of probation, the sex offender shall participate in an intensive supervision probation program until further order of the court

3. Sex offenders are required as part of their sentence to undergo treatment to the extent appropriate (based on sex offender evaluation and recommendations)

Sentences for crimes committed while on parole or probation do not supersede the sex offense sentence (except the death penalty)

##### **Parole-intensive supervision program**

DCS shall establish an intensive supervision parole program

Sex offenders in the intensive supervision parole program shall receive the highest level of supervision that is provided to parolees

The intensive supervision program may include, but is not limited to:

Severely restricted activities

Daily contact between the sex offender or other person & the parole officer

Monitored curfew  
Home visitation  
Employment visitation and monitoring  
Drug & alcohol screening  
Treatment referrals & monitoring, including physiological monitoring  
Payment of restitution

### **Parole Conditions**

1. In determining whether to release the sex offender on parole, the Parole Board shall determine  
Whether the offender has successfully progressed in treatment, and would not pose an undue threat to the community if released, and whether there is a strong and reasonable probability that the person will not thereafter violate the law.
2. DCS shall make recommendations to the Parole Board as to whether the sex offender should be released on parole and the level of treatment and monitoring that should be imposed.  
The recommendation is based on criteria established by the management board.

If released on parole, the offender's sentence to incarceration shall continue until such time as the parole board may discharge the sex offender from parole pursuant to statutory criteria

- (a) The minimum period of parole for a class IV felony is 10 years;  
The minimum period of parole for a class II or III felony is 20 years

As a condition of parole, a sex offender shall participate in the intensive supervision parole program.

Offender can be paroled to a lower level of supervision if he/she demonstrates successful progression in treatment and that she/she would not pose an undue threat to community if paroled to a lower level of supervision

- The parole officer may petition the parole board for a reduction in the sex offender's level of supervision
- The parole officer and the treatment provider make recommendations to the parole board
  - The recommendation is based on criteria established by the management board
- The offender's parole officer may return the sex offender to intensive supervision if warranted
  - The parole officer shall notify the parole board

After the minimum term of parole (10 or 20 years), the parole board shall hold a

hearing to determine whether the sex offender may be discharged from parole  
In determining whether to release the sex offender from parole, the Parole board shall determine

- Whether the offender has successfully progressed in treatment, and
- Would not pose an undue threat to the community if released
- The parole officer and treatment provider make recommendations to the parole board

### **Probation Conditions**

Provisions for intensive supervision program are the same as for parole

Sex offender may be placed in residential community corrections program

If the sex offender successfully progresses in treatment and would not pose undue threat

to community, the court may order “release from community corrections program to probation”

- A condition of probation is the intensive supervision program
- Intensive supervision continues until further order of the court
- The minimum period of parole for a class IV felony is 10 years
- The minimum period of parole for a class II or III felony is 20 years

Upon recommendation of the probation officer and the treatment provider, the court may discharge the offender from probation

### **Miscellaneous**

Colorado statute requires the management board in collaboration with corrections, judicial department and parole board to establish

Criteria by and the manner in which a sex offender may demonstrate that s/he would not pose an undue threat

Methods of determining whether a sex offender has successfully progressed in treatment, and

Standards for community entities that provide supervision and treatment for sex offenders with developmental disabilities

Parole or probation revocation is based on recommendation of parole/probation officer and treatment provider.

**NEVADA STATUTES**

**NRS 176.0931      Special sentence for sex offenders; petition for release from lifetime supervision.**

1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalty provided by law, a special sentence of lifetime supervision.
2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.
3. A person sentenced to lifetime supervision may petition the district court in whose jurisdiction he resided for release from lifetime supervision. The court shall grant a petition for release from a special sentence of lifetime supervision if:
4. The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 15 consecutive years after his last conviction or release from incarceration, whichever occurs later; and
5. The person is not likely to pose a threat to the safety of others if released from lifetime supervision.

A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provision for registration as a sex offender and to the provision for community notification, unless he is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.350 to 179D.800, inclusive.

As used in this section:

“Offense that poses a threat to the safety or well-being of others” has the meaning ascribed to it in NRS 179D.060.

“Sexual offense means:

A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450;

An attempt to commit an offense listed in subparagraph (1); or

An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

(Added to NRS by 1995, 414; ! 1997, 1671) - (Substituted in revision for NRS 176.113)

**NRS 213.1243 Release of sex offender; Program of lifetime supervision**

The board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offender by parole and probation officers.

Lifetime supervision shall be deemed a form of parole for the limited purposes of the applicability of the provision of NRS subsection 2 of NRS 213.110.

A person who violates a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the State prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

(Added to NRS by 1995, 415; A 1997, 512, 1189)

**NRS 176A.410 Required terms and conditions for sex offenders; exceptions.**

Except as otherwise provide in subsection 2, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

Reside at a location only if it has been approved by the parole and probation officer assigned to the defendant;

Accept a position of employment only if it has been approved by the parole and probation officer assigned to the defendant;

Abide by any curfew imposed by the parole and probation officer assigned to the defendant;

Participate in and complete a program of professional counseling approved by the division;

Submit to periodic tests to determine whether the defendant is using a controlled substance and submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant;

Abstain from consuming alcohol;

Not have contact or communicate with a victim of the sexual offense or a witness who testifies against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant;



Not use aliases or fictitious names;

Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant;

Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present; and

Not be in or near:

- (1) A playground, school or school grounds
- (2) A motion picture theater; or
- (3) A business that primarily has children as customers or conducts events that primarily children attend.

The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

**NRS 213.1255 Prisoner convicted of sexual offense against child under 14: Additional conditions of parole required when appropriate.**

1. In addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 2 against a child under the age of 14 years, the board shall, when appropriate:
  - (1) Require the parolee to participate in psychological counseling;
  - (2) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present; and
  - (3) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.
2. The provisions of subsection 1 apply to a prisoner who was convicted of:
  - (1) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;
  - (2) Abuse or neglect of a child pursuant to paragraph (a) of subsection 2 of NRS 200.508;
  - (3) An offense punishable pursuant to subsection 2 of NRS 200.750;
  - (4) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;
  - (5) Lewdness with a child pursuant to NRS 201.230; or

- (6) Any combination of the crimes listed in paragraphs (a) to (e) inclusive.
  - (7) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present; and
  - (8) a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.
3. The provisions of subsection 1 apply to a prisoner who was convicted of:
- (1) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;
  - (2) Abuse or neglect of a child pursuant to paragraph (a) of subsection 2 of NRS 200.508;
  - (2) An offense punishable pursuant to subsection 2 of NRS 200.750;
  - (4) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;
  - (5) Lewdness with a child pursuant to NRS 201.230; or
  - (6) Any combination of the crimes listed in paragraphs (a) to (e), inclusive.

(Added to NRS by 197, 1722; A 1999, 470)

## ATTACHMENT E

### STANDARDS FOR SEX-OFFENDER-SPECIFIC EVALUATIONS

1. Each sex offender/abuser shall receive a mental health sex offense-specific evaluation to identify individuals who are at low risk of re-offending as well as those who are highly likely to re-offend. Because of the importance of the information collected during an evaluation subsequent to sentencing and/or adjudication, supervision, treatment, and behavioral monitoring each sexual offender/abuser should receive a thorough assessment and evaluation. In addition, it is important to recognize that assessment and evaluation are ongoing processes and should continue on a regular basis through each stage of supervision and treatment to ensure recognition of changing levels of risk.
2. The mental health sex offense-specific evaluation has the following purposes:
  - (a) To document the treatment needs identified by the evaluation (even if resources are not available to adequately address the treatment needs of the sex offender/abuser);
  - (b) To provide a written clinical evaluation of an offender's/abuser's risk for re-offending and current amenability for treatment;  
To guide and direct specific recommendations for the conditions of treatment and supervision of an offender/abuser;
  - (c) To provide information that will help to identify the optimal setting, intensity, intervention, and level of supervision, and;
  - (d) To provide information that will help to identify offenders/abusers who should not be referred for community-based treatment.
3. The evaluator shall obtain the informed assent<sup>1</sup> of the offender/abuser for the evaluation, and inform an offender/abuser of the assessment and evaluation methods, how the information will be used, and to whom it will be given. The evaluator shall inform the individual about the nature of the evaluator's relationship with the offender/abuser and the court. The evaluator shall respect an offender's/abuser's right to be fully informed about the evaluation procedures. Unless limited by statute, results of the evaluation should be shared with the individual and any questions clarified. When working with individuals who have guardians, informed consent from the guardian must be obtained. In addition, the above information needs to be explained to the guardian and the individual

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<sup>1</sup> Informed Assent: in this document shall mean compliance with the request for evaluation with full disclosure of the facts to make the decision to comply intelligently. This acknowledges that sex offender's/abuser's are not voluntary clients and have more limited choices.

4. The evaluator shall be sensitive to any cultural, ethnic, developmental, sexual orientation, age, gender, medical and/or educational issues that may arise during the evaluation.

The following approaches to mental health sex offense-specific evaluations are recommended

- Use of instruments that have specific relevance to sexually abusive behavior;
- Use of instruments with demonstrated reliability and validity;
- Integration of collateral information;
- Use of multiple assessment instruments and techniques;
- Use of a clinical interview that systematically addresses all necessary areas;
- Use of consultation.

The following are all required in performing a mental health sex-offender-specific evaluation. Both current and historical information should be considered

- (a) Examination of available criminal justice information, including the details of the current offense and documents that describe victim trauma;
- (b) Examination of collateral information, including information from other sources, e.g. Child Protective Services (CPS) investigations, juvenile records, diversion services etc.;
- © A structured clinical interview including substance use and abuse information;  
Sex-offender-specific risk assessment;  
Sexual evaluation, including knowledge, sexual developmental history and evaluation for sexual arousal/interest, deviance and paraphilias;  
Recommendations regarding treatment needs and level of supervision  
Level and intent of denial and/or deception;  
Trauma and victimization history, sexual and other types of trauma/victimization;  
With juvenile perpetrators and developmentally disabled abusers, the following are also required.
  - Family history and relationships
  - Support system response to the sexual misconduct
  - Social functioning and peer relationships
  - Educational history and school adjustment
  - Placement history
  - Cognitive ability and limits including culpability
  - Identification of assets

With developmentally disabled individuals, evaluators have to also consider

- Adaptive Behavior
- Ability to work in groups

5. Evaluators shall adhere to established ethical standards, practices and guidelines of their respective professions as they consider the relevant risk factors which should include but not be limited to the following:
  - (a) Complete sex/sex related offense history, including charges, substantiated allegations, juvenile adjudications and convictions;
  - (b) Prior Criminal History;  
Victim Characteristics i.e., age, gender, relationship between the victim and the offender;
  - (c) Early onset of offending that continues over time;
  - (d) Prior treatment participation, treatment drop out;
  - (e) Personality disorder, especially antisocial personality disorder;
  - (f) Diversity in types of sex crimes and victims;
  - (g) Level of violence and coercion utilized in offense;
  - (h) Progressive pattern of offenses, violence and dangerous behaviors;
  - (i) Access to potential victim pool;
  - (j) Any changes in status in relationship to support systems, employment stability,  
life stressors, treatment involvement or compliance with supervision;

These factors should be considered in relation to the current available research.

6. The evaluator shall recommend

The level and intensity of offense-specific treatment needs;  
Referral for neuropsychological, medical and pharmacological evaluation and treatment if indicated;  
Treatment of co-existing conditions;  
The level and intensity of behavioral monitoring needed;  
Specific external controls which should be considered for each individual (e.g., work limitations, living arrangements, leisure time conditions, or other issues that might increase risk and require increased supervision);  
Appropriateness and extent of community placement.

7. Evaluators at all stages whether pre-sentence/pre-disposition, treatment or release shall include any other factors, information or recommendations that may impact that particular person's likelihood of re-offense or that may be relevant to his sexual offense pattern.

Other information that may be addressed or available includes the following:

- Self-reported intent to re-offend;
- Health considerations and terminal illness;
- Medication compliance;
- Substance Use or Abuse;
- Penile Plethysmography\*;
- Sex-offender-specific polygraph results\*;
- Abel Screen.

\*Caution should be used when considering the use of plethysmography or polygraphy with juveniles and the developmentally disabled

## **ATTACHMENT F**

### **STANDARDS FOR SEX OFFENDER/ABUSER TREATMENT**

1. Treatment of sexual offenders/abusers requires a multi disciplinary, multi-modal and multi-system combination of interventions. When working with adult sex offenders, specialized, cognitive-behavioral sex offender group therapy is the preferred mode of treatment. Treatment philosophy and practice should be consistent throughout a comprehensive service-delivery system with a continuum of care. All agencies within a service-delivery system should adopt common philosophy and practice which enables treatment to continue as the individual changes placements or moves into more or less restrictive or intensive stages of treatment.
2. Treatment emphasizes accountability. Sexually abusive behavior is illegal. Legal intervention therapeutically communicates the serious, illegal and unacceptable nature of sexually abusive behavior and provides a critical means of insuring cooperation with treatment. Most sex offenders/abusers are not sufficiently uncomfortable with their behavior to follow through in treatment without external pressure and support to do so. Treatment must also be made available for sexually abusive youth too young to be prosecuted and for the developmentally disabled who are unable to participate in the legal system.
3. Sexual offenders/abusers require specialized sex offense-specific treatment in the least restrictive setting which can provide for victim and community safety, as well as the treatment needs of the individual. If victim safety conflict and treatment options are not compatible, victim safety is the highest determining consideration. When community safety conflicts with the rights or interests of the offender/abuser, the treatment provider must choose protection of the community.
4. Specialized sex offense-specific treatment should be comprehensive. Each offender/abuser should have an individual treatment plan based on the needs and risks identified in current and past assessments/evaluations of the individual. The written treatment plan shall identify:
  - Issues to be addressed;
  - Planned intervention strategies, and
  - Measurable goals to be achieved.The plan should be re-assessed and revised periodically.
5. Necessary program components should include:
  - Ongoing individualized evaluation,
  - Individual case planning,
  - Sex offense-specific treatment,

#### Discharge planning and Aftercare.

Treatment should also address other mental health issues, trauma-related issues (including the abuser's own victimization), substance use/abuse, and other non-sexual abusive, aggressive and exploitative behaviors. Adjunct therapies may be warranted (e.g., marital therapy, family therapy), however, sex offense-specific treatment shall be the primary focus.

6. The treatment provider shall be aware of biases and limits of competence working with special populations (i.e.: juveniles, developmentally disabled, gender issues, etc.) and either make appropriate referrals or obtain relevant supervision and consultation when working with sexual offenders/abusers.
7. For youth and developmentally disabled abusers, treatment must be sensitive to issues of growth and development, as well as cognizant of social, family and cultural background. Treatment providers need to evaluate cultural, language, developmental disability, sexual orientation and/or gender factors that may require special treatment arrangements and make appropriate referrals or accommodation.
8. Sex offenders/abusers' rights should be clearly defined and informed consent should be obtained for treatment. Absolute confidentiality cannot apply in the treatment of this population because it may promote the secrecy that supports sexual abuse and may endanger the community. Releases of information should be obtained and limits of confidentiality explained to the offender/abuser and/or his/her parent/guardian.
9. The adult treatment program shall be designed to:
  - (a) Increase the offender's personal responsibility for his/her actions, thus decreasing denial and defensiveness
  - (b) Decrease and facilitate acquisition of self-management methods and coping skills to manage deviant sexual urges and recurrent deviant fantasies;
  - (c) Facilitate identification of the offender's specific risk factors and potential re-offense risk;
  - (d) Facilitate the understanding of thoughts, emotions, behaviors, personal victimization and effects of trauma on offenders that may be part of the offender's pattern of sexual assaulting, or other assaultive/victimizing behaviors. (It is essential that the offender be prevented from assuming a victim stance in order to diminish responsibility for his/her actions);
  - (e). Provide offenders with an environment that encourages the development of empathic skills needed to achieve sensitivity and empathy for victims;
  - (f) Facilitate understanding of the impact of sexual offending upon victims, families, and the community;



- (g) Facilitate understanding and change of an offender's cognitive distortions, personality traits and deficits that are related to the potential for re-offending;
  - (h) Facilitate acquisition of non-abusive, adaptive, and legal sexual functioning;
  - (i) Provide offenders with guidance to prepare, when appropriate, written explanation or clarification for the victim(s) that meets the goals of: establishing full perpetrator responsibility, empowering the victim and promoting emotional restitution for the victim(s);
10. Facilitate development of appropriate social and interpersonal relationship skills;
  11. Facilitate understanding and management of anger, power, control and stress issues.
  12. Require offenders to develop a thorough, written relapse prevention plan to be shared with all members of their support group. It should include antecedent thoughts, feelings, circumstances, high risk situations and behaviors associated with sexual offending as well as appropriate aftercare treatment;
  13. Provide treatment referrals, as indicated, for offenders with co-existing medical, pharmacological, mental, substance abuse, disabilities and /or other relevant issues;
  14. Encourage offender communication with significant others in his/her support group to assist in meeting treatment goals. When possible and indicated, the therapist should also maintain such communication;
  15. Evaluate cultural, language, developmental disabilities, sexual orientation and/or gender factors that may require special treatment arrangements and make appropriate referrals or accommodation;
  16. Make referrals for follow-up treatment as needed and appropriate.  
In the treatment process of every sexually abusive youth, certain definable issues have been identified as a result of clinical experience and should be addressed (refer to *Revised Report, 1993*, Section XVII: Issues to be Addressed in Treatment, pp.43-44). Treatment methods should address specific areas (refer to *Revised Report, 1993*, list p.48). Treatment progress is determined by accomplishment of specific measurable goals and objectives (refer to *Revised Report, 1993*, Indicators of progress, p.52), observable changes, and demonstrated ability to apply changes in current situations. (See Appendix A).
  17. Sex offenders who have developmental disabilities may not be able to conceptualize the sequential cycle portion of the traditional relapse prevention plan, victim empathy or arousal reconditioning techniques. Treatment interventions should be concrete, should employ visual and experiential learning styles and over learning, and should focus on the offender's ability to identify acceptable and deviant sexual behavior as well as risk situations or behaviors and appropriate interventions (alternate behaviors).
  18. A co-therapy team of sex-offender-specific providers (preferably male and female) is the recommended facilitation model for group treatment. The sole use of individual therapy is not recommended with sex offenders/abusers except when geography, disability, gender, or developmental issues dictate its use.

19. Sex offender/abuser group treatment combining non-abusing victims and abusers is not suggested. Caution is exercised when making decisions about including male and female offenders in the same groups. Special concern and safety precautions are needed when offenders/abusers are in contact with any non-abusive populations. For juveniles and the developmentally disabled, decisions regarding group composition consider the age and developmental status of the individual, and the seriousness of the sexual misconduct pattern.
20. Clarification processes related to reconciliation between the sexual offender/abuser and victim (e.g., sibling incest situations) should be pursued dependent upon victim readiness and the abuser's progress in treatment. Victim/abuser meetings must guarantee the victim's safety and should usually include the victim's therapist. The meetings should have clear ground rules for behavior that help ensure the physical and emotional safety of both victims and perpetrators.
21. Treatment methods are based on the recognition of the need for long-term, comprehensive, sex offense-specific treatment for adult sexual offenders. Treatment of most sexually abusive youth often requires a minimum of 12-24 months. This may vary depending on the following factors:
  - (1) Offense characteristics;
  - (2) Setting;
  - (3) Treatment hours;
  - (4) Methods;
  - (5) Intensity of program;
  - (6) Characteristics of the offender/individual;
  - (7) Level of participation.

Time-limited programs may endanger the credibility of all treatment programs for this population and should only be considered as a didactic module within a larger treatment plan. Aftercare is considered an integral portion of the levels of intervention/continuum of care model and should continue to be available indefinitely.

22. Specialized treatment programs incorporate program evaluation methods into their design for quality improvement. Programs should monitor offender/abuser outcomes and data relevant to recidivism for purposes of future research and system improvement.
- (1) Providers shall maintain offender's/abuser's records in accordance with the professional standards of their individual disciplines. The provider shall: Obtain waivers of confidentiality based on the informed assent of the offender/abuser for all previous or current adjunct treatment providers, supervising officer(s), involved Health and Human Services workers and victim therapist, if applicable.

Offenders/abusers and when applicable, guardians shall be notified of the limits of confidentiality imposed on therapists by mandatory reporting laws.

- (2) Document the goals of treatment, the method used, the observed progress or lack of thereof, toward reaching the goals in the treatment record. Specific achievements, failures, rule violations, and consequences should be recorded.
- (3) Accurately reflect the offender's/abuser's progress, sessions attended, adjunct therapies recommended and attended, summaries of outside treatment program participation, changes in treatment and how measured along with any modifications in the treatment or recommended changes in supervision.
- (4) When applicable, treatment providers should immediately notify appropriate authorities regarding treatment terminations, refusals, discontinuations or high-risk behaviors. A current risk assessment and recommendations may accompany such disclosures (e.g., probation or parole revocation, return to inpatient/residential therapy, termination of child visitation, referral for Mental Health Board Commitment).

## **ATTACHMENT G**

### **QUALIFICATIONS OF SEX-OFFENDER-SPECIFIC TREATMENT PROVIDERS**

#### **DEFINITIONS.**

Required training means Sex-offender-specific Training approved by the Board of Psychology and shall include the following;

1. Etiology of Sexual Deviance
2. Sex Offender Evaluation
3. Risk Assessment
4. Arousal Control/Reconditioning
5. Cognitive/Behavior Therapy
6. Relapse Prevention
7. Victim Awareness and Empathy
8. Follow-up Treatment
9. Behavior Modification
10. Human Sexuality
11. Human Growth and Development
12. Ethics and Professional Standards

Recommended training means Sex-offender-specific Training approved by the Board of Psychology and shall include (in addition to those listed as required) the following;

13. Couples and Parent Therapy
14. Reunification
15. Pharmacological Agents
16. Special Populations

17. Dual Diagnosis
18. Assessment Instruments
19. Sexual Arousal Assessment
20. Social Competencies
21. Physiological Measurements
22. Federal, State or Provincial Sexual Abuse Statutes

Board shall mean the Board of Psychologists.

Certified Sex Offender Therapist (CSOT) means a person who meets the standards established in subsection \_\_\_\_ of section \_\_\_\_ and who holds a current certificate issued by the department.

Department means the Department of Health and Human Services Regulation and Licensure.

Provisionally Certified Sex Offender Therapist (PCSOT) means: a person who meets the standards established in subsection \_\_\_\_ of section \_\_\_\_ and who holds a current certificate issued by the department.

Sex Offender Therapy means therapeutic intervention to change sexually abusive thoughts and behaviors and utilizes specific strategies to promote change. This certification permits the Sex Offender Therapist to perform Sex-offender-specific evaluations while it does not allow for interpretation of psychological testing. Interpretation of any psychological testing must be conducted by a Licensed Psychologist.

Supervision means the ongoing process of monitoring the performance of a provisionally certified sex offender therapist by providing regular documented consultation, guidance, and instruction.

**CERTIFICATE REQUIRED AND EXCEPTIONS.** After \_\_\_\_\_ no person shall provide sex offender therapy or hold himself or herself out as a sex offender therapist unless s/he is certified for such purpose pursuant to the Uniform Licensing Law, except that this section shall not be construed to prevent:

1. Qualified members of other professions who are licensed, certified, or registered by this State from practice of any sex offender therapy activity consistent with the scope of practice of their respective professions;
2. Teaching or the conduct of research related to sex offender therapy services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of sex offender therapy services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;
3. The delivery of sex offender therapy by:
  - (a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or
  - (b) Individuals seeking to fulfill postgraduate requirements for certification when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board; or
4. Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as certified sex offender therapists or their services are not represented as sex offender therapy.

**CERTIFICATION QUALIFICATIONS:** A person shall be qualified to be a certified sex offender therapist if s/he:

1. Is Licensed as a Mental Health Practitioner, a Psychologist, or a Specially Licensed Psychologist all of whom must be in good standing within their profession; and
2. Has completed Board required/approved training in the area of Sex Offender Treatment; and
3. Adheres to the generally accepted standards of practice of the individual's mental health profession or psychology profession, and shall also adhere to the Code of Ethics published by the Association for the Treatment of Sexual Abusers (ATSA); and
4. Has never had been convicted or received a deferred judgement for any offense involving criminal sexual or violent behavior or a felony that would bring into question the competence or integrity of the individual to provide sex offense-specific treatment; and

5. Has not been found to engage in unethical behavior by any licensing or certifying body, nor had a license or certificate revoked, limited, suspended, nor been placed on probationary status by an professional licensing body.

**GRANDPARENT CLAUSE:** For a period of one-year following (date \_\_\_\_\_), to attain certification as a sex offender therapist, an applicant must:

1. Be licensed as a Mental Health Practitioner, a Psychologist, or a Specially Licensed Psychologist all of whom must be in good standing within their profession; and
2. Have completed at least 1,000 hours of Sex Offender Therapy; or
3. Be a current member of the Association for the Treatment of Sexual Abusers (ATSA) and is in good standing.

**PROVISIONAL CERTIFICATION QUALIFICATIONS:**

1. A person who needs to obtain the required hours of supervised experience in sex offender therapy as specified in section \_\_\_\_\_ in order to qualify for a sex offender therapy certification must obtain a provisional sex offender therapy certification. To qualify for a provisional sex offender certification, such person shall:
  - (a) Be a Licensed Mental Health Practitioner, a Licensed Psychologist, or a Specially Licensed Psychologist all of whom must be in good standing within their profession; or
  - (b) Be a Provisionally Licensed Mental Health Practitioner or a Provisionally Licensed Psychologist all of whom must be in good standing with their profession; and
  - (c) Complete 1000 hours of supervised training in the treatment of Sex Offenders, which includes the following. These 1000 hours of supervised training may not be completed in less than 6 months and not more than 5 years prior to application for certification as a sex offender therapist:
    - Not less than 500 hours of direct contact (group or individual therapy);
    - Remaining hours (up to 500) may be indirect contact; and
    - Two (2) hours of supervision monthly by a Certified Sex Offender Therapist.
  - (d) Adhere to the generally accepted standards of practice of the individual's mental health

profession or psychology profession; and shall adhere to the Code of Ethics published by the Association for the Treatment of Sexual Abusers (ATSA).

- (e) Apply for provisional certification
  - Within sixty days after (effective date of bill), if the one thousand hours of supervised experience were being earned on (effective date bill); or
  - At any time following effective date of bill, but prior to beginning to earn the one thousand hours of supervised experience, if such experience was not being earned on effective date of bill; and
- (f) Pay the provisional sex offender therapy certification fee specified in

section \_\_\_\_\_.

- 2. A provisional sex offender therapy certification shall expire upon receipt of certification as a sex offender therapist or five years after the date of issuance, whichever comes first. An individual may request an extension of provisional licensure; however, they must provide justification for such extension.

**PROCEDURE FOR RENEWAL OF CERTIFICATION.** All certificates issued by the Department of Health and Human Services under these regulations will expire on September 1 of each even numbered year. An individual who wishes to renew his/her certificate to practice Sex Offender Therapy must have an active license to practice mental health or psychology. An individual who places his/her license to practice mental health or psychology on inactive or lapse status must also place his/her certificate on inactive or lapse status.

- 1. Any licensee and certificate holder who wishes to renew his/her certificate must:
  - (a) Meet continuing education requirements as specified in these regulations;
  - (b) Pay the renewal fee as prescribed; and
  - (c) Submit to the Department:
    - The renewal notice;
    - The renewal fee; and
    - Verified documentation of completion of 24 hours of continuing education earned within the twenty-four (24) months of the date of expiration on a form provided by the department.
      - ◆ Continuing education hours accepted for the renewal of this certificate may count toward the thirty-two (32) hours required for the renewal of a license as a Mental Health Practitioner or the twenty-four (24) hours required for renewal of a Psychology License.



**GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF OR DISCIPLINE A CERTIFICATE HOLDER.**

The department shall deny an application for a certificate to practice Sex Offender Therapy when the applicant fails to meet the requirements for license and/or certification of any of the provisions, or is found to be in violation of any of the provisions.

The department shall deny, refuse renewal of, limit, suspend, or revoke a certificate for any of the following grounds:

- Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a certificate.
- Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession of this State.

**DISCLOSURE OF CONFIDENTIAL INFORMATION** This section will depend greatly on any decisions made by other work teams or squads. It should follow the recommendations we would be submitting to the Governor.

**SCHEDULE OF FEES.** The following fees have been set by the Department upon the recommendation of the Board of Psychologists to be paid as a condition of issuance of or renewal of this certificate.

- A certificate as a Sex Offender Therapist, the fee of no less than twenty-five dollars (\$25.00) and no more than one hundred dollars (\$100.00).

**ATTACHMENT H**

**GRAPHICS  
CURRENT AND PROPOSED SYSTEMS**

## ATTACHMENT I

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